MOTT MACDONALD

# South Ripley Solar Project

## Spill Prevention, Control, and Countermeasure Plan

January 2022

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# Issue and revision record

| Revision | Date | Originator | Checker | Approver | Description |
|---|---|---|---|---|---|
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| 2 | 06/02/2021 | J. Miner, D. Hynes | M. Thornton | | Draft for Client Review |
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# Contents

## Tables

# Acronyms

| | |
|---|---|
| AC | alternating current |
| AST | Aboveground Storage Tank |
| BESS | Battery Energy Storage System |
| CERCLA | Comprehensive Environmental Response, Compensation and Liability Act |
| CFR | Code of Federal Regulations |
| DC | direct current |
| eCFR | Electronic Code of Federal Regulations |
| Facility | South Ripley Solar Facility |
| ft | feet |
| gal | gallon |
| HVAC | Heating, Ventilation, and Cooling |
| kV | kilovolt |
| LOTO | Lock Out / Tag Out |
| mil | 1/1000$^{th}$ of an inch |
| MW | megawatt |
| MWac | megawatt alternating current |
| NEC | National Electrical Code |
| NYS | New York State |
| NYSDEC | New York State Department of Environmental Conservation |
| Owner | CONNECTGEN CHAUTAUQUA COUNTY LLC. |
| Plan | Spill Prevention, Control, and Countermeasure Plan |
| POI | Point of Interconnection |
| Project | South Ripley Solar Project |
| PV | photovoltaic |
| RCRA | Resource Conservation and Recovery Act |
| RQ | reportable quantity |
| SARA | Superfund Amendments and Reauthorization Act |
| SDS | Safety Data Sheets |

| | |
|---|---|
| SPCC | Spill Prevention, Control, and Countermeasure |
| USEPA | United States Environmental Protection Agency |
| UST | Underground Storage Tank |

# Executive summary

Facility Name: __South Ripley Solar Facility_____

Address: _____

1. Does the facility transfer oil over water to or from vessels and does the facility have a total oil storage capacity greater than or equal to 42,000-gallons?

YES _____ NO _X____

2. Does the facility have a total oil storage capacity greater than or equal to one million (1,000,000) gallons and does the facility lack secondary containment that is sufficiently large to contain the capacity of the largest aboveground oil storage tank plus sufficient freeboard to allow for precipitation within any aboveground oil storage tank area?

YES _____ NO _X_____

3. Does the facility have a total oil storage capacity greater than or equal to one million (1,000,000) gallons and is located at a distance such that a discharge from the facility could cause injury to fish and wildlife and sensitive environments?

YES _____ NO _X_____

4. Does the facility have a total oil storage capacity greater than or equal to one million (1,000,000) gallons and is the facility located at a distance (as calculated using the appropriate formula in 40 CFR Part 112 Appendix C, Attachment C-III or a comparable formula) such that a discharge from the facility would shut down a public drinking water intake.

YES _____ NO _X_____

5. Does the facility have a total oil storage capacity greater than or equal to one million (1,000,000) gallons and has the facility experienced a reportable oil discharge in an amount greater than or equal to 10,000 gallons within the past five (5) years?

YES _____ NO _X_____

**Certification Pursuant to 40 CFR Part 112, Appendix C**

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document, and that based on my inquiry of those individuals responsible for obtaining this information, I believe that the submitted information is true, accurate, and complete.

_____ _____

(Signature) (Title)

_____ _____

(Please Print or Type Name) (Date)

# 1 Part I. Spill Prevention, Control, and Countermeasure Plan General Requirements – 40 CFR 112.7

## 1.1 CERTIFICATION OF PROFESSIONAL ENGINEER (40 CFR 112.3 (D)

I hereby certify the following, pursuant to 40 CFR 112.3(d)(1):

- I am familiar with the requirements of this part;
- I or my agent have visited the South Ripley Solar Facility;
- This SPCC Plan has been prepared in accordance with good engineering practice, including consideration of applicable industry standards, and with the requirements of this part;
- Procedures for inspections and testing have been established; and
- This SPCC Plan is adequate for the South Ripley Solar Facility.

Name of Registered Professional Engineer:_____

Registration Number:_____

Signature:_____

Date:_____

AFFIX SEAL

## 1.2 MANAGEMENT APPROVAL AND COMMITMENT (40 CFR 112.7(K)(2)(II)(B))

This Spill Prevention, Control and Countermeasure (SPCC) Plan (Plan) has been prepared in accordance with the applicable portions of 40 CFR 112 and is intended to establish the procedures, methods, equipment, and other requirements to prevent the discharge of oil into or upon the navigable waters of the United States or adjoining shorelines from the CONNECTGEN CHAUTAUQUA COUNTY LLC, South Ripley Solar Facility located within the Town of Ripley, Chautauqua County, New York. This Plan is intended to fulfill the spill control requirements of applicable federal and state regulations.

This SPCC Plan has the full approval of management with authority to commit the necessary resources to fully implement the SPCC Plan, including the Oil Contingency Plan per 40 CFR Part 109. All personnel with responsibilities covered by this plan will be expected to become familiar and act in accordance with its provisions.

It is the intention of management of the site to conduct our operations in accordance with the Plan presented herein. Full approval and authority is extended by the undersigned to commit the necessary resources to implement this Plan.

_____
(Signature)

_____
(Please Print Name)

_____
(Title)

## 1.3 PLAN REVIEW AND AMENDMENT (40 CFR 112.5(A-B))

In accordance with 40 CFR 112.5(a), this SPCC Plan will be revised whenever there is a change in the site design, construction, operation and/or maintenance that materially affects the South Ripley Solar Project's potential for a discharge of oils to navigable waters or adjoining shorelines. Examples of changes that may require amendment of the SPCC Plan include but are not limited to: the installation or removal of electrical transformers or other oil storage; modifications to secondary containment methods; or the revision of standard operations and maintenance procedures.

In accordance with 40 CFR 112.5(b), a review of the SPCC Plan is completed at least *once every five (5) years* to ensure its protectiveness and effectiveness. Documentation of reviews both periodically and operationally is documented herein. This Plan will also be revised in the event this Plan fails in an emergency situation. Such revisions will be fully implemented as soon as possible, but not later than six (6) months after such change occurs.

Any technical amendment to the SPCC Plan shall be certified by a Professional Engineer within six (6) months after a change in the facility design, construction, operation, or maintenance occurs which materially affects the facility's potential for the discharge of oil as defined in 40 CFR 112.1(b) from the facility. Any amendment must be implemented as soon as possible, but not later than six (6) months following the preparation of any amendment.

Any revisions to this Plan will be reviewed and certified by a Registered Professional Engineer pursuant to the following: "I have completed a review and evaluation of this SPCC Plan for the CONNECTGEN CHAUTAUQUA COUNTY LLC, South Ripley Solar Facility the date noted. The SPCC Plan will or will not be amended as indicated below."

All revisions to this SPCC Plan will be documented in this section.

| Date of Review | Name and Title of Reviewer | Signature of Reviewer | Will or Will Not Amend SPCC Plan |
|---|---|---|---|
| | | | ☐ Will Amend<br>☐ Will Not Amend |
| | | | ☐ Will Amend<br>☐ Will Not Amend |
| | | | ☐ Will Amend<br>☐ Will Not Amend |
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| | | | ☐ Will Amend<br>☐ Will Not Amend |

## 1.4 INTRODUCTION & PLAN ORGANIZATION

This Spill Prevention, Control and Countermeasure Plan (Plan) describes the procedures, methods, and equipment used at the CONNECTGEN CHAUTAUQUA COUNTY LLC (Owner), South Ripley Solar Project (Project or Facility) site to prevent the discharge of oil into or upon navigable waters of the United States or adjoining shorelines or to any other location that may affect other natural water resources of the United States from the Project. Along with describing the counter measures used within the Project, the Plan establishes inspection, reporting training, and recordkeeping requirements for the aboveground oil storage at the Project site.

This Plan is organized to follow the requirements of the US Environmental Protection Agency (USEPA) 40 CFR §112.7 and the New York State Department of Environmental Conservation (NYSDEC) Spill Reporting and Initial Notification Requirements.

## 1.5 CONFORMANCE WITH 40 CFR PART 112 (§112.7(A)(1)-(2)) and NYSDEC SPILL REQUIREMENTS

This Project will conform to the requirements of USEPA 40 CFR Part 112 and NYS Spill Reporting and Initial Notification Requirements. All oil-filled electrical equipment will have sufficient secondary containment. Inspection, operation and maintenance, training and spill response procedures and other requirements of the 40 CFR Part 112 and the NYSDEC Spill Requirements are described in this document.

## 1.6 LOCATION OF PLAN AND AVAILABILITY FOR REVIEW (40 CFR 112.3(E) (1 AND 2))

A copy of this SPCC Plan will be maintained at the Facility and will be made available to the USEPA Regional Administrator and/or the NYSDEC Regional Administrator for on-site review during normal working hours. This document will also be shared with Local Emergency Planning Committees as agreed upon during 94-C consultation. After updates, new versions will be submitted to each agency that has a copy of the SPCC.

## 1.7 GENERAL INFORMATION (40 CFR 112.7(A))

### 1.7.1 Facility Name and Ownership

**Facility Name:** South Ripley Solar Facility located within the Town of Ripley, Chautauqua County, New York

**Facility Owner:** CONNECTGEN CHAUTAUQUA COUNTY LLC
1001 McKinney, Suite 700
Houston, TX 77002

**Table 1-1 FACILITY OWNER CONTACT PERSONNEL**

| Name | Title | Contact Information |
|---|---|---|
| | | |
| | | |
| | | |

### 1.7.2 Facility Description (40 CFR 112.7(a)(3))

The South Ripley Solar Project is a proposed 270 megawatt (MWac) photovoltaic (PV) solar energy generating project located within the Town of Ripley, Chautauqua County, New York.

The proposed Project consists of the construction and operation of a commercial-scale solar power project, including:

- A solar field of PV panels producing direct current (DC) electricity mounted on fixed-tilt racking structures

that will follow the sun throughout the day;

- Inverters placed throughout the Project to convert DC electricity to alternating current (AC) electricity.
- A medium voltage collection system that will aggregate the AC output from the inverters;
- A collector substation where the Facility's electrical output voltage will be combined, and its voltage increased to the transmission line voltage of 230 kV via a step-up transformer and interconnected into adjacent designated point of interconnection (POI) via a new interconnection switchyard;
- An interconnection switchyard will be built near the existing South Ripley Substation to intercept and interconnect into the existing Erie to Dunkirk 230kV transmission line. The interconnection switchyard will be owned by National Grid. New transmission structures will be built to intercept the line and span into the new station.
- A 230kV transmission line will connect the collector substation to the interconnection switchyard;
- O&M storage containers;
- A 4-hour 20MW battery energy storage system (BESS);
- Seven temporary on-site laydown yards, totaling 30.2 acres;

Refer to Appendix A for the SPCC Site Plan (Figure 1) drawing for the location and details pertaining to the two bulk storage containers located within one temporary on-site laydown yard that are regulated under this Plan. This SPCC Plan Site will be updated as needed for the Plan to remain current. This will include identification of construction Contractors, Owner Operations, and future Contractors as plans are developed for construction, operations and future updates as needed. Additional information about these containers is presented in the following sections.

This Plan will be updated and managed by an SPCC Coordinator. This position will be the individual who will be the point person responsible for reporting any spills to local, state, or federal agencies, providing answers regarding this document or regulations for Contractors. The SPCC Coordinator may be a specific person during construction and changed for Operations. The Site Manager will be responsible for identifying the SPCC Coordinator and ensuring they have the skills and knowledge necessary to carry out the responsibilities laid out in this document.

Each Contractor at the facility will also identify an SPCC Contact who will serve as the company lead to supervise and manage their company compliance with the SPCC plan. This person may serve additional roles but must have the skills and knowledge necessary to read and understand this Plan and the authority to authorize action by their company to respond to a potential spill.

### 1.7.3 Contact List (40 CFR 112.7(a)(3)(vi))

The following list contains the important contacts for the SPCC Plan:

**Table 1-2 FACILITY AND AGENCY CONTACT INFORMATION**

| Name | Title | Contact Information |
|---|---|---|
| | Site Manager<br>SPCC Coordinator | |
| | Contractor SPCC Contact | |
| | Contractor SPCC Contact | |
| **EMERGENCY RESPONSE CONTRACTORS** | | |
| **Name** | | **Contact Information** |

**Table 1-2 FACILITY AND AGENCY CONTACT INFORMATION**

| REGULATORY AGENCY CONTACT INFORMATION | |
|---|---|
| **Name** | **Contact Information** |
| Chautauqua County Office of Emergency Services | 716.753.4341<br>ContactUs@chautcofire.org |
| Ripley Fire Department | 911 or for non-emergencies<br>716.736.2001 |
| New York State Spill Hotline | 800.457.7362 |
| Environmental Protection Agency Region #2 | 877.251.4575 |
| National Response Center (US Coast Guard) | 800.424.8802<br>202.267.2675 |

### 1.7.4 Bulk Storage Containers (40 CFR 112.7(a)(3)(i))

Oil-filled equipment, such as an electrical transformer, is not considered a bulk storage container pursuant to 40 CFR 112. During construction, some oil filled containers may be stored temporarily in the laydown yard as identified in the SPCC Plan Site in Appendix A. If there will be bulk storage containers during operation, they will be identified on an updated SPCC Site Plan in Appendix A.

### 1.7.5 Discharge Prevention Measures (40 CFR 112.7(a)(3)(ii))

It is not anticipated that there will be any regular storage of oil on site during normal operations. However, in the event of temporary storage, the Owner will take the following precautions to verify that a release of oil and hazardous substances is prevented or contained:

#### 1.7.5.1 Containers

1. All containers 55-gallons or greater will be stored on pallets or indoors and surrounded with secondary containment.
2. Secondary containment will include but will not be limited to:
   a. Temporary earthen berms with polyethylene underlining the entire contained area with a minimum of 10-mil thickness or a portable containment system constructed of steel, PVC or other suitable material.
   b. Concrete tub type secondary containment structures
3. Containment areas will be capable of containing 110 percent of the volume of the largest container in the area.
4. All container storage areas will be inspected daily for leaks and deterioration.
5. Leaking and/or deteriorated containers will be replaced as soon as the condition is first detected, and cleanup measures must be implemented to remediate all contamination.
6. No incompatible materials will be stored in the same containment area.
7. No storage area will be unattended for periods longer than three (3) days.

#### 1.7.5.2 Tanks

1. The Owner and their Contractors will operate only those tanks for fuel and material storage which meet the requirements and regulations specified in the contract agreement and will be surrounded with secondary containment.
2. Self-supporting tanks will be constructed of carbon steel or other materials compatible with the contents of each tank.

3. Vehicle mounted tanks will be equipped with flame/spark arrestors on vents to verify that self-ignition does not occur.
4. Tanks will not be used to store incompatible materials in sequence unless first thoroughly decontaminated.
5. Any tank utilized for storing different products between construction locations will be thoroughly decontaminated prior to refilling.
6. Tanks will be inspected daily for leaks and damage by the Site Manager or their delegate.

#### 1.7.5.3 Loading/Unloading Areas

1. The area beneath loading/unloading locations will be inspected for spills before and after each use. Corrective measures will be implemented if spills occur.
2. Transferring of liquids and refueling will only occur in pre-designated locations at least 100 feet (ft) from all waterbodies and 200 ft from any water well. Where conditions require that construction equipment (e.g., trench dewatering pumps or hydrostatic test water pumps) be refueled within 100 ft of waterbodies or wetlands, these operations must be manned continuously to verify that over filling, leaks or spills do not occur. Where stationary equipment must remain within 100 ft of a waterbody or wetland, adequate secondary containment must be implemented.
3. All pre-designated areas where transferring of liquid and refueling take place must be equipped with an emergency response kit. At a minimum this kit must include:
    a. 10, 48" x 3" oil socks,
    b. Five (5), 17" x 17" oil pillows,
    c. One (1), 10' x 4" oil boom,
    d. 20, 24" x 24" oil mats,
    e. garden size, six (6) mil, polyethylene bags,
    f. 10 pair liquid proof gloves compatible with materials on site, and
    g. One (1), 55-gallon polyethylene open-head drum.
4. Service vehicles used to transport lubricants and fuel must be equipped with a smaller chemical response kit which contains:
    a. One (1) bag of loose chemical pulp,
    b. Two (2) to three (3), 17" x 17" chemical pillows,
    c. Two (2), 48" x 3" chemical socks,
    d. Five (5), 18" x 18" adsorbent mats,
    e. garden size, six (6) mil, polyethylene bags,
    f. 10 pair liquid proof gloves compatible with materials on site,
    g. One (1), 30-gallon polyethylene open-head drum, and
    h. hazardous waste labels.
5. Each refueling vehicle will have a sufficient number of shovels, brooms, 10-mil polyethylene sheeting, and fire protection equipment to contain a moderate oil/fuel spill.

#### 1.7.5.4 Inspection

1. Site Manager or delegate will perform daily inspection of secondary containment for generators used for dewatering.
2. Site Manager or delegate will perform weekly inspections of container storage areas.
3. Site Manager or delegate will perform regular inspection of on-site equipment for leaks and proper secondary containment.

4. Site Manager or delegate will monitor any refueling operations taking place within a wetland or waterbody.

### 1.7.6 Discharge or Drainage Controls (40 CFR 112.7(a)(3)(iii))

This facility will have temporary bulk storage in the offsite laydown yard that will have secondary containment. Discharge prevention measures associated with this site's oil-filled equipment (i.e. transformers) are described in Section 1.10.

Additional discharge and drainage control measures are discussed in Part II Section 2.0.

### 1.7.7 Counter Measures (40 CFR 112.7(a)(3)(iv))

The following subsections describe the procedures to be followed when discovering a release:

#### 1.7.7.1 Discharge Discovery

The person discovering the release from a tank, drums, or from oil-filled equipment should initiate the following immediately:

1. **Extinguish any sources of ignition.** Until the material is identified as nonflammable and noncombustible, all potential sources of ignition in the area should be removed. Vehicles should be turned off. If the ignition source is stationary, attempt to move spilled material away from ignition source. Avoid sparks and movement creating static electricity.
2. **Attempt to stop the release at its source.** Assure that no danger to human health exists first. Simple procedures (turning valves, plugging leaks, placement of absorbent booms, etc.) may be attempted by the discoverer if there is no health or safety hazard and there is a reasonable certainty of the origin of the leak. All other efforts to control leaks should be under the supervision of the SPCC Coordinator.
3. **Initiate spill notification and reporting procedures.** Report the incident immediately to the SPCC Coordinator. If there is an immediate threat to human life (e.g. a fire in progress or fumes overcoming workers), an immediate announcement should be made to evacuate the nearby area (or nearby buildings), and the fire department should be contacted. Request the assistance of the fire department's hazardous materials response team or from the Project's spill cleanup contractor if an uncontrollable spill has occurred and/or if the spill has migrated beyond the facility's boundaries. The SPCC Coordinator will perform any necessary Owner reporting and local, state, and federal regulatory notification.
    - All spills are reported to the Owner and include GPS coordinates.
    - All spills 5 gallons and over must be reported to the State of New York DEC.
    - Any spill that causes a "sheen" on navigable water or adjoining shorelines must be reported, violate water standards, or cause sludge or an emulsion.
    - For hazardous substance releases, a table can be found at Electronic Code of Federal Regulations (eCFR). Upon the addition of SDS forms by Contractors, the hazardous release quantities should be verified.

Refer to Section 1.7.3 for a list of emergency contacts.

#### 1.7.7.2 Discharge Response

If material is released outside the containment areas, it is critical that the material is accurately identified, and appropriate control measures are taken in the safest possible manner. Consult the on-site safety data sheets (SDS), as appropriate. SDSs are available inside the office/administration area. To contain a release, the following procedure should be followed.

1. **Attempt to stop the release at the source.** If the source of the release has not been found; if special protective equipment is necessary to approach the release area; or if assistance is required to stop the

release, the fire department or cleanup contractor should be contacted to aid in halting the discharge at its source. Site personnel should be available to guide assistance from other parties.

2. **Contain the material released into the environment.** Following proper safety procedures, the spill should be contained through the use of absorbent materials, spill kits, hand tools/mops/brooms, etc. Spill kits that include absorbent material, containment socks, rags, plastic, etc. are staged in various locations across the facility. Consult applicable SDSs for material compatibility, safety, and environmental precautions.
3. **Continue the notification procedure.** Inform the SPCC Coordinator of the release (the Coordinator shall perform immediate notification as appropriate). Obtain outside contractors to clean up the spill, if necessary.

#### 1.7.7.3 Discharge Cleanup Procedures

Appropriate personal protective equipment and cleanup procedures can be found on SDSs. Care must be taken when cleaning up spills to minimize the generation of waste. The Site Manager can identify additional resources to assist the SPCC Coordinator.

1. **Recover or cleanup the material spilled** - As much material as possible should be recovered and reused where appropriate. Material that cannot be reused must be declared waste. Liquids absorbed by solid materials shall be shoveled into open top, 55-gallon drums; or if the size of the spill warrants, into a roll-off container(s). When drums are filled after a cleanup, the drum lids shall be secured, and the drums shall be appropriately labeled (or relabeled) identifying the substance(s), the date of the spill/cleanup, and the facility name and location. Combining non-compatible materials can cause potentially dangerous chemical and/or physical reactions or may severely limit disposal options. Compatibility information can be found on SDSs.
2. **Cleanup of the spill area** - Surfaces that are contaminated by the release shall be cleaned via an environmentally friendly degreaser or similar product. Occasionally, porous materials (such as wood, soil, or oil-dry) may be contaminated. and specific directions for disposal of these items should be obtained by the facility that will take these materials.
3. **Decontaminate tools and equipment used in cleanup and replenish spill kits** - Even if dedicated to cleanup efforts, tools and equipment that have been used must be fully cleaned so all traces of the oil or other spilled materials are removed before replacing them in the spill control kit. Spill kits shall be inventoried and replenished with supplies following a cleanup event.

### 1.7.8 Disposal Plan (40 CFR 112.7(a)(3)(v))

Following a release, the SPCC Coordinator will ensure that all recovered waste, contaminated absorbents, and impacted media (e.g. impacted soil) are collected and disposed of in accordance with federal and state requirements. Recovered contaminated material will be disposed of at an approved treatment, storage, and disposal facility. Records of the recovery and disposition of all contaminated materials should be retained with all project records. The SPCC Coordinator will also ensure that all spill response equipment is cleaned and replenished as necessary.

## 1.8 NOTIFICATION REQUIREMENTS (40 CFR 112.7(A)(4))

### 1.8.1 General Spill Documentation and Reporting

Spill documentation may begin as part of routine and scheduled inspections where documentation is recorded on the Site Inspection Checklist (Appendix B). A copy of the NYSDEC Technical Field Guidance for Spill Reporting and Initial Notification Requirements is provided as Appendix C of this Plan for reference. At the conclusion of a discharge, a Spill Reporting Form will be completed and kept on file as Appendix D of this Plan. The SPCC Contact of the company responsible for the spill will complete the form and submit to the SPCC Coordinator. A preliminary Spill Reporting Form is provided in Appendix D and completed Spill

Reporting Forms are to be retained onsite within Appendix D of this Plan. At a minimum, the following items will be recorded on the Spill Reporting Form:

1. The exact address or location, GPS coordinates, and telephone number of the facility;
2. The date and time of the discharge;
3. The type of material discharged;
4. Estimates of the total quantity discharged;
5. Estimates of the quantity discharged that affects public health or the environment;
6. The source of the discharge;
7. A description of all affected media;
8. The cause of the discharge;
9. Any damages or injuries caused by the discharge;
10. Actions being used to stop, remove, and mitigate the effects of the discharge;
11. Whether an evacuation may be needed; and
12. The names of individuals and/or organizations that have also been contacted.

Oil spills and hazardous substance releases in excess of the Reportable Quantity (RQ) are to be immediately reported to the SPCC Coordinator. All spills must be reported SPCC Coordinator.

A Spill Report Form (Appendix D) will also be completed and forwarded to the SPCC Coordinator as soon as technically feasible. The SPCC Coordinator will determine if the release constitutes a:

1. RQ under Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA),
2. Reportable release under the Clean Water Act or Resource Conservation and Recovery Act (RCRA), or
3. Reportable Threshold Quantity under Superfund Amendments and Reauthorization Act (SARA) Title III, local, and state requirements.

### 1.8.2 New York State Reporting Requirements

An oil spill must be reported to the New York State (NYS) Spill Hotline at 1-800-457-7362 ***within 2 hours of discovery,*** unless the spill meets all of the following criteria:

1. The quantity is known to be less than 5 gallons; and
2. The spill is contained and under control of the spiller; and
3. The spill has not and will not reach the State's water or any land; and
4. The spill is cleaned up within 2 hours of discovery

Note that a spill is considered to not have impacted land if it occurs on a paved surface such as asphalt or concrete; however, a spill onto a dirt or gravel parking lot is considered to have impacted land and is reportable.

Any spill must still be reported to the SPCC Coordinator.

The NYSDEC Technical Field Guidance Spill Reporting and Initial Notification Requirements is provided in Appendix C.

### 1.8.3 U.S. Environmental Protection Agency Reporting Requirements

In the event of a discharge meeting the following criteria, the SPCC Coordinator must submit a spill log and reporting form and any additional documentation as necessary to the USEPA Regional Administrator and the NYSDEC within 60 days of the following:

1. A single discharge of more than 1,000 gallons of oil into or upon navigable waters or adjoining shorelines; or
2. Two (2) discharges, each more than 42 gallons of oil, to navigable waters or adjoining shorelines occurring within any twelve-month period.

These reports will be completed by the SPCC Contact of the company responsible for the spill and submit the form to the SPCC Coordinator. The report must include the following information:

- Name of the Project;
- Name(s) of the owner/operator of the Project;
- Name of the person reporting the discharge(s);
- Location of the Project;
- Maximum storage of handling capacity of the Project and normal daily throughput;
- The corrective actions and/or countermeasures taken, including a description of the equipment, repairs and/or replacements;
- An adequate description of the Project, including maps, flow diagrams, and topographical maps, as necessary;
- The Cause(s) of the reportable discharge, including a failure analysis of system or subsystem in which the failure occurred;
- Additional preventive measures taken or contemplated to minimize the possibility of recurrence; and
- Other information as the USEPA Regional Administrator may reasonably require pertinent to the Plan or spill.

## 1.9 FAILURE ANALYSIS (40 CFR 112.7(A)(5)(B))

It is expected that a major failure of or damage to a pad mounted transformer could result in the instantaneous release of the full volume of oil stored. Typically, a minor failure or damage to a transformer could result in a slow leak with a possible discharge rate of 10 gallons/hour with a maximum estimated discharge of 20 gallons.

It is expected that a major failure of or damage to a substation transformer could result in the instantaneous release of the full volume of oil stored. Typically, a minor failure or damage to a substation transformer could result in a slow leak with a possible discharge rate of 100 gallons/hour with a maximum estimated discharge of 200 gallons. It is expected that any discharge from the substation transformer would be contained in the secondary containment vault.

All oil-filled equipment with an oil capacity of 55 gallons or greater will be located within secondary containment designed to hold greater than 110% of the oil capacity of the equipment, therefore, the probability of a release that reaches a water of the US or other sensitive aquatic resources is minimal.

## 1.10 CONTAINMENT AND DIVERSIONARY STRUCTURES (40 CFR 112.7(C))

The main function of containment and diversionary structures is to limit the spread of a spill prior to cleanup. The containment system must be capable of containing oil so that any discharge from the primary containment system will not escape the containment system before cleanup occurs. As noted in 40 CFR 112.7(c), secondary containment may be either active or passive in design.

The equipment listed in Table 1-3 uses mineral oil, which may constitute a risk to navigable waters of the United States.

**Table 1-3 OIL-FILLED EQUIPMENT**

| ID | Storage Capacity (gal) | Contents | Location Description |
|---|---|---|---|
| Collector Substation Main Transformer (1) | 20,000 gallons | Mineral Oil | This transformer will be situated within a concrete-tub secondary containment |
| Collector Substation Instrument Transformers (3) | 40 gallons (each) = 120 gallons total | Mineral Oil | This transformer does not require secondary containment per 40 CFR 112.1(d)(5). |
| Collector Substation Single Station Service Transformer (1) | 50-75 gallons depending on manufacturer | Mineral Oil | Pole-mounted on graveled area. |
| Interconnection Substation Instrument Transformers (12) | 40 gallons (each) = 480 gallons total | Mineral Oil | This transformer does not require secondary containment per 40 CFR 112.1(d)(5). |
| Interconnection Substation Single Station Service Voltage Transformer (1) | 70-100 gallons depending on manufacturer | Mineral Oil | Mounted on steel pedestal on graveled area. |

### 1.10.1 Collector Station Main Transformer (20,000-gallon Capacity)

The Main Transformer located at the collector station will have an oil-carrying capacity of 20,000-gallons. This transformer will be located within a concrete tub-type secondary containment structure designed to hold greater than 110% (22,000-gallons) of the oil capacity of the main transformer.

### 1.10.2 Instrument Transformers (40-gallon Capacity)

The Collector Station will house 3 instrument transformers with 40-gallons capacity each, and the Interconnection Station will house 12 instrument transformers with 40-gallons capacity each. Instrument transformers will be located in graveled areas, secondary containment is not required per 40 CFR 112.1(d)(5).

### 1.10.3 Station Service Transformer (50 to 75-gallon Capacity)

The Collector Station will house one single station service transformer, pole mounted on a graveled area, with 50 to 75-gallons capacity (depending on manufacturer).

### 1.10.4 Station Service Voltage Transformer (70 to 100-gallon Capacity)

The Interconnection Station will house one single station service voltage transformer, steel pedestal mounted on a graveled area, with 70 to 100-gallons capacity (depending on manufacturer).

### 1.10.5 Impracticability Determination (40 CFR 112.7(d))

A written explanation of impracticability to install secondary containment structures or equipment is not applicable.

### 1.10.6 Discharge Potential

A wetland and waterbody delineation was conducted and submitted to both the NYSDEC and USACE as part of the 94-C Regulations, Clean Water Act Section 404, and NYSDEC Freshwater Wetland Article 24 permitting for the project. In summary, the study resulted in a delineation of 113 unnamed wetlands totaling 115.2 acres under federal jurisdiction and 275.8 acres under NYSDEC jurisdiction. A total of 82 streams were delineated; 6 of which are under NYSDEC jurisdiction (including Twentymile Creek), and the remaining 76 streams are under federal jurisdiction. The unnamed streams and wetlands ultimately feed to the Sixteenmile Creek (western portion of site), the West Branch French Creek (southern portion of site) and the Twentymile Creek (central and eastern portions of site).

The greatest potential for discharges reaching aquatic resources could occur during construction activities in and adjacent to these wetlands and waterbodies, either during the use of equipment in these areas or during potential refueling. Note that all equipment refueling must occur at least 100 feet away from all wetlands and waterbodies.

The transformers are placed in areas over 100 feet from waterbodies and any bulk storage greater than 55 gallons will be placed within secondary containment. For additional mitigation measures, the location for the main transformers and bulk storage areas have been chosen or engineered to be flat with little potential to have a release and flow towards any nearby waters of the US, drainages, or other aquatic resources.

## 1.11 INSPECTIONS, TESTS, AND RECORDS (40 CFR 112.7(E))

### 1.11.1 Monthly and Annual Inspections (40 CFR 112.7(e))

The Site Manager or his designee will monitor operation of oil-filled equipment. A weekly inspection of secondary containment areas will be completed, and regular inspections of onsite equipment for leaks will be completed. During visual inspections, the base of each transformer will be inspected for security and signs of damage. If an oil leak had reached the ground it would be identified at this time.

### 1.11.2 Transformer Oil Testing (40 CFR 112.7(e))

Visual inspections of transformers will be completed in accordance with written procedures, to be developed by operations, and on a monthly schedule. Transformer oils will be tested regularly, and records of inspections and tests will be signed by the appropriate supervisor or inspector. These records will be retained with this SPCC for no less than three (3) years.

### 1.11.3 Records (40 CFR 112.7(e))

Written or electronic records of inspections will be maintained onsite for a minimum period of three (3) years.

## 1.12 PERSONNEL TRAINING AND DISCHARGE PREVENTION BRIEFINGS (40 CFR 112.7(F))

The Site Manager will provide regular training for operational and oil-handling personnel. The training encompasses spill prevention and response in conjunction with stormwater pollution prevention. The training, in general, touches on various topics associated with spill prevention to include but not limited to the following (and as required under 40 CFR 112.7(f)):

1. Operation and maintenance of equipment to prevent discharges;
2. Discharge procedure protocols and emergency response procedures;
3. Applicable pollution control laws, rules, and regulations;
4. General facility operations; and
5. Contents of this SPCC Plan;

6. Additional training topics may include the following:
   a. Spill detection and employee awareness;
   b. Spill control, containment, and countermeasures;
   c. Product storage, handling, and transfer procedures;
   d. Facility (i.e. building) drainage system;
   e. Internal and external communication;
   f. Use and maintenance of spill response equipment;
   g. Building security to prevent vandalism to bulk storage units.

Employees that are involved with performing tasks associated with diesel fuel tanks or other petroleum storage tanks that are covered under this Plan (e.g. periodic inspections, etc.) will participate in the annual training. The focus of the training will include, at a minimum, the importance of spill prevention, spill prevention methods, spill cleanup procedures, and spill reporting and response. In addition, periodic training may occur if new equipment is installed that requires a change in this Plan or for orientation of newly assigned employees. All training units will be documented on the Training Log provided in Appendix E, and the documentation will be kept on-site within Appendix E of this Plan or with the Operations Manager or a designee.

The SPCC Coordinator for the South Ripley Solar Facility will be identified in the Facility Contact List Table 1-2 located in Section 1.7.3 of this Plan.

## 1.13 SECURITY (40 CFR 112.7(G))

The South Ripley Solar Facility is fenced, has locking gates that block the site entrances during off-work hours, and has controlled access via of a visitor sign-in policy. The facility will adhere to National Electrical Code (NEC) codes for electric generation facilities. Facility will be accessed by Owner authorized personnel only. CONNECTGEN CHAUTAUQUA COUNTY LLC will work with local emergency responders on procedures to gain access to site.

## 1.14 TANK TRUCK LOADING/UNLOADING RACKS (40 CFR 112.7(H))

Not Applicable: The subject facility is not equipped with tank truck loading/unloading racks.

## 1.15 FIELD-CONSTRUCTED ABOVEGROUND CONTAINERS (40 CFR 112.7(I))

Not Applicable: There are no field-constructed aboveground storage tanks (ASTs) on site.

## 1.16 COMPLIANCE WITH STATE REGULATIONS (40 CFR 112.7(J))

The Project meets the definition of a facility as defined by 6 NYCRR Part 613 and will be in compliance with AST regulations outlined in 6 NYCRR 613-4, and in particular the requirements for secondary containment outlined in 6 NYCRR 613-4.1(v).

## 1.17 QUALIFIED OIL-FILLED OPERATIONAL EQUIPMENT (40 CFR 112.7(K))

The subject facility has seventeen (18) pieces of oil-filled operational equipment; one (1) 20,000-gallon capacity main transformer, fifteen (15) 40-gallon capacity instrument transformers, one (1) 50 to 75-gallon single station service transformer, and one (1) 70 to 100-gallon single station service voltage transformer all of which are used in the electrical generation operations (refer to Table 1-3 in Section 1.10).

Additional equipment will be added as needed during the development of Operation requirements.

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# 2 Part II. Spill Prevention, Control, and Countermeasure Plan Requirements for Onshore Facilities (Excluding Production Facilities) – 40 CFR 112.8

## 2.1 GENERAL REQUIREMENTS 40 CFR 112.8(A)

The prior sections of this SPCC Plan demonstrated the subject facility's compliance with 40 CFR 112.7.

## 2.2 FACILITY DRAINAGE (40 CFR 112.8(B))

The drainage design of the South Ripley Solar Facility is shown in Appendix A, Figure 2. However, the oil-filled equipment onsite will be installed inside secondary containment structures designed to hold 110% of oil capacity. Secondary containment basins will be equipped with drainage geomembrane filters that allow the passage of water but not the passage of oil. Any physical dewatering of secondary containment basins will be completed through the use of manual pumps, and inspection of liquids to be dewatered will occur prior to pumping. No pumping of liquids with visible odor or sheen will be permitted. There are no diked storage areas (with or without valves) that capture and temporarily store stormwater that could potentially be impacted with oil.

## 2.3 BULK STORAGE CONTAINERS (40 CFR 112.8(C))

There will be two temporary bulk storage containers onsite within one of the temporary laydown yards located near the BESS site for the South Ripley Facility. Per 40 CFR 112.2, oil-filled equipment is not considered bulk storage containers.

### 2.3.1 Construction of Bulk Storage Containers – 40 CFR 112.8(c)(1)

Bulk storage containers utilized for the Project will not be constructed onsite, the Project will utilize manufactured storage containers and construct secondary containment in accordance with this Plan.

All oil-filled transformers were manufactured specifically to contain the stored oils and, as such, the oil-filled equipment tanks are compatible with the petroleum products stored.

### 2.3.2 Secondary Containment – 40 CFR 112.8(c)(2)

Methods of secondary containment at this Facility will include prefabricated structures and if necessary, land-based spill response to prevent oil from reaching navigable waters and adjoining shorelines. All secondary containment structures shall be sized to hold a minimum of 110% of the volume of the single largest tank within the containment area.

All ASTs will be double-walled to meet USEPA SPCC secondary containment requirements under 40CFR Part 112.7(c). Any ASTs with a storage capacity of 660 gallons or more storing Class I, II, or IIIA combustible liquids is required to have vent pipe outlets located twelve (12) feet above ground level under the International Fire Code.

### 2.3.3 Containment Drainage– 40 CFR 112.8(c)(3)

Drainage from the secondary containment area surrounding tanks, drums, and transformers, including temporary and permanent containment areas, will be drained by manually activated pumps, as needed. The retained rainwater will be inspected by authorized Facility personnel prior to draining to ensure that

only oil-free water is discharged. A sorbent filter boom will be used to absorb any oils in the containment area and disposed of properly following cleanup. Drainage of containment areas will be recorded in the log included in Appendix D.

### 2.3.4 Corrosion Protection – 40 CFR 112.8(c)(4 and 5)

There will be no underground storage tanks (USTs) at the subject Facility. Further, there are no partially buried or bunkered metallic tanks present. Therefore, the requirements for corrosion protection are not applicable.

### 2.3.5 Integrity Testing – 40 CFR 112.8(c)(6)

Inspections and tests are performed typically on a monthly frequency. The scope of monthly inspections of bulk storage is described in Part I Section 1.11, and a draft copy of the inspection checklists is in Appendix B. Checklists that align with the actual site-specific equipment will be developed in the future. Inspections are documented using these checklists, and the inspecting official signs these records. Signed records are maintained at the facility for a minimum of three (3) years. Any oil encountered during the monthly inspections (or otherwise) is promptly removed/cleaned up, and all other issues arising from the inspection are promptly addressed.

Monthly visual inspections of the ASTs at the subject Facility can be considered a suitable evaluation method based on information presented in 40 CFR 112.8(c)(6) which states the following: “Integrity testing may be as simple as an external visual inspection.” This provision, in conjunction with the type of each container and each container’s storage environment suggests that additional non-destructive integrity testing is not warranted.

If corrosion is noted on the exterior of any transformer, a certified inspector or qualified professional will determine whether the transformer is acceptable for continued use. Such determination may be made through internal inspections or other method acceptable to the professional. The facility management will act based on the professional’s recommendation.

### 2.3.6 Heating Coils – 40 CFR 112.8(c)(7)

The transformers on site are not equipment with internal heating coils. Therefore, the requirements of this section are not applicable.

### 2.3.7 Overfill Prevention Measures – 40 CFR 112.8(c)(8)

Oil-filled equipment is expected to arrive on site full and will not receive additional oil (i.e. not subject to filling events). Secondary containment will be deployed, such as maintenance spill containment berms, e.g. “duck ponds”, when filling tanks from larger storage tanks. Fillings tanks will only be conducted after tanks, fixtures, and hoses are examined for cracks, holes, or potential leak points. During filling, personnel will remain at the location throughout the filling operation to watch for any leaks or accidental spills and to prevent overspill.

### 2.3.8 Effluent Treatment Facilities – 40 CFR 112.8(c)(9)

No effluent treatment facilities are present at the subject facility. Therefore, the requirements of this section do not apply.

### 2.3.9 Visible Discharge Correction Measures – 40 CFR 112.8(c)(10)

Visible discharges from any container or appurtenance – including seams, gaskets, piping, pumps, valves, rivets, and bolts – are corrected as soon as possible following discovery. Oil is promptly removed from containment areas and disposed of according to the waste disposal method described in previous sections of this document.

### 2.3.10 Mobile or Portable Oil-Storage Containers – 40 CFR 112.8(c)(11)

There will not be any mobile or portable oil-storage containers onsite at the South Ripley Solar Facility. Therefore, the requirements of this section do not apply.

## 2.4 FACILITY TRANSFER OPERATIONS, PUMPING, AND FACILITY PROCESS (40 CFR 112.8(D))

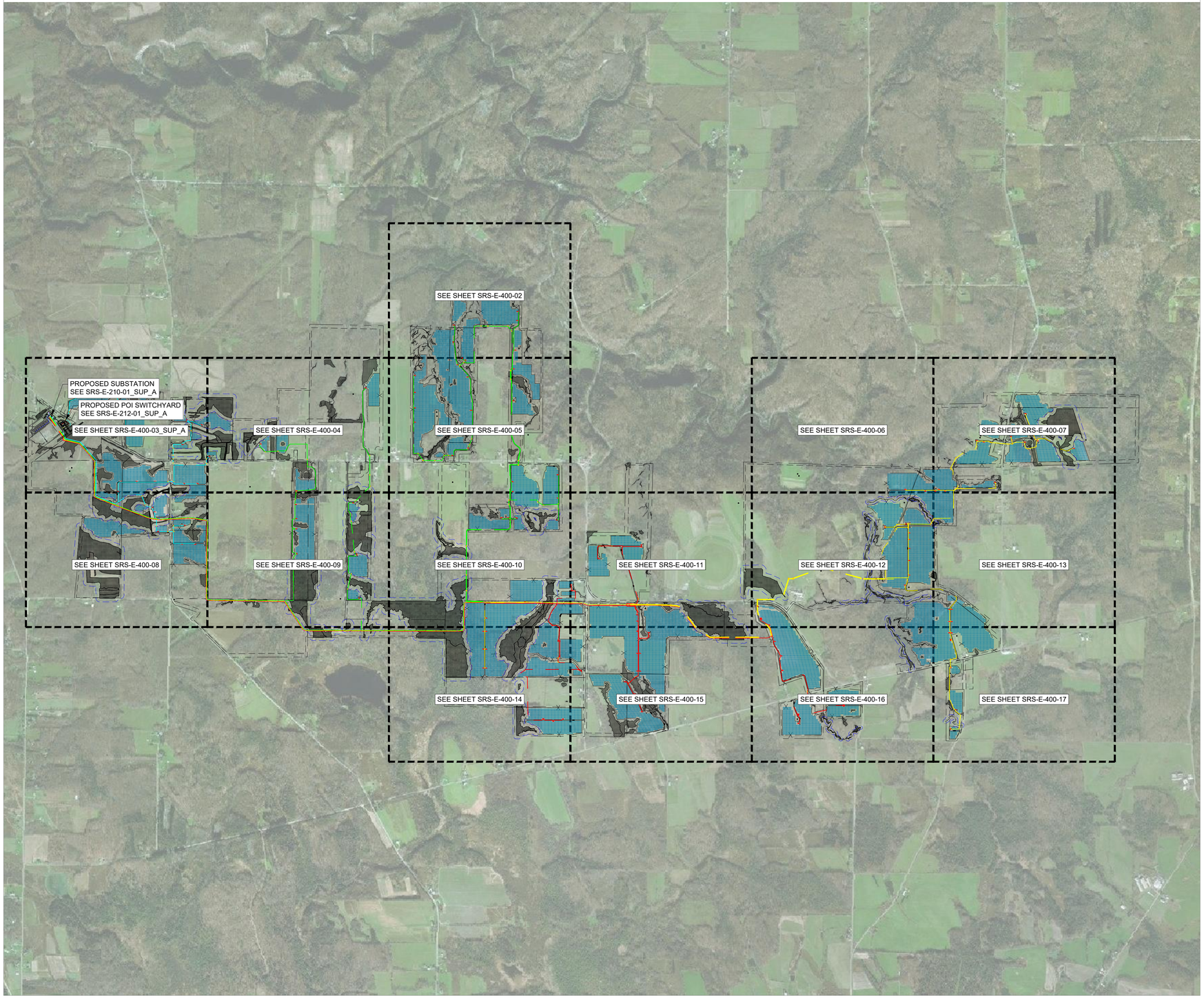
None of the bulk storage containers nor the oil-filled equipment have any appurtenant buried piping or aboveground piping/valves that could potentially be damaged by vehicles traversing the site.

*Remainder of this page has been intentionally left blank.*

# Appendices

# A. Project Mapping

Please refer to Appendix 5-A and Appendix 5-B for mapping of Project equipment and laydown yards. These maps will be updated as part of detailed design for pre-construction compliance filings.




N

0 750' 1500' 3000' 4500'

Site Data

| | |
|---|---|
| CAPACITY (AC): | 270MW |
| CAPACITY (DC): | 344.9MW |
| PV MODULES | |
| MFR: | CANADIAN SOLAR |
| MODEL: | CS6Y-560MB-AG |
| NAMEPLATE: | 560Wp |
| QUANTITY: | 615,875 |
| INVERTERS | |
| MFR: | KACO |
| MODEL: | BLUEPLANET 150TL3 |
| NAMEPLATE: | 135.1kW / 150kVA |
| QUANTITY: | 2,058 |
| ARRAY | |
| MFR: | FLEXRACK SERIES G3-X |
| TYPE: | FIXED TILT |
| TILT: | 37° |
| GCR: | 50% |

Legend

- TAX PARCEL BOUNDARY
- FENCE
- GRAVEL ROAD
- NYSDEC WETLANDS
- FEDERAL WETLANDS
- VEGETATION BUFFER
- REAMS
- SETBACK
- NYSDEC SETBACK
- GAS LINE
- 34.5KV AERIAL LINE
- STRUCTURE & ID
- PERMANENT EASEMENT FOR AERIAL LINE
- 1 MVA STEP-UP XFMR
- 2 MVA STEP-UP XFMR
- 3 MVA STEP-UP XFMR
- JUNCTION BOX
- BORING AREAS
- PAD MOUNTED SWITCHGEAR
- PCSXX.XX PCS ID
- CXX CONDUIT ID

| AERIAL | IN CONDUIT | IN TRENCH |
|---|---|---|
| | | FEEDER 1 CABLES |
| | | FEEDER 2 CABLES |
| | | FEEDER 3 CABLES |
| | | FEEDER 4 CABLES |
| | | 34.5KV BESS CABLES |

| Rev | Date | Drawn | Description | Ch'k'd | App'd |
|---|---|---|---|---|---|
| | | | | | |
| | | | | | |
| C | 01/07/2022 | JLL | ISSUED FOR 94-C | CS | JS |
| B | 12/08/2021 | JLL | ISSUED FOR REVIEW | CS | JS |
| A | 11/24/2021 | JLL | ISSUED FOR REVIEW | CS | JS |

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Client

South Ripley SOLAR PROJECT

Title

# SOUTH RIPLEY SOLAR ELECTRICAL SOLAR OVERALL SITE PLAN - SUPPLEMENTAL A

PRELIMINARY
NOT FOR CONSTRUCTION
REPLACE WITH ENGINEERS STAMP AT CONSTRUCTION AND/OR FABRICATION

| | | | |
|---|---|---|---|
| Designed | CS | Eng check | CS |
| Drawn | JLL | Approved | JS |
| Dwg check | JLL | Project Mngr | RA |
| Scale at ANSI D: 1" = 1500' | | Date: 01/07/22 | Rev: C |

Drawing Number: SRS-E-400-01_SUP_A



CONCEPTUAL - NOT FOR CONSTRUCTION

# B. Inspection Checklists

## Preliminary Electrical Substation Inspection Checklist – South Ripley Solar Project

| Inspection performed by: |
|---|

| Component | Status | | |
|---|---|---|---|
| | Yes | No | Comments |
| **Yard** | | | |
| Is the substation fencing in good repair (no holes in fence / excavations under fence)? | | | |
| Are all gate locks secured and in good working order? | | | |
| Are all grounding mats covered (i.e. no wire protruding)? | | | |
| Yard lighting function properly (no lights out)? | | | |
| Are ladders inspected and stored properly (40' Extension & 4' Step)? | | | |
| Is there any unused equipment or material stored in the yard? | | | |
| Is there any garbage / refuse etc. on the ground? | | | |
| Are there clear warning / hazard signs posted in appropriate places? | | | |
| **Yard (bus, switches and transformers)** | | | |
| Are all switches and cabinets in good repair, secure and locked/tagged where appropriate? | | | |
| Are all equipment labels legible and in good repair (e.g. switches, OCBs)? | | | |
| Does an overhead visual check of the substation bus reveal any problems (broken insulators, cracked lightning arrestors, loose hardware, etc.)? | | | |
| Are there any oil leaks visible from the transformers or metering tanks? | | | |
| Does a visual inspection of the transformers reveal any problems? | | | |
| Do the radiator cooling fans spin freely? | | | |
| Are all gauges reading within range? | | | |
| Main Transformer: (Record Highest and Reset) Oil Temp.: Winding Temp.: | | | |
| **Building** | | | |
| Is the metal clad building in good repair, no visible damage to building (leaks, holes, tears)? | | | |
| Is the metal clad building entrance securely locked? | | | |
| Is the building exterior lighting function properly (no lights out)? | | | |
| Are there any issues within the building (lights out, HVAC, communications)? | | | |
| Is the building in compliance with housekeeping standards? | | | |
| **Safety Equipment** | | | |
| Are the grounding sticks and high voltage gloves in good repair and inspection? | | | |
| Are the Arc Flash suits in good repair and clean? | | | |
| Are the proper LOTO tags/locks and LOTO log available? | | | |
| Are the ground cables & high voltage detector in good repair and function? | | | |
| Is all safety equipment secured and stored properly? | | | |
| Are the First - aid kit, Fire Extinguisher's & Eye Wash station ready for use and inspected? | | | |
| **Critical Equipment** | | | |
| Are any alarms showing on the transformer (i.e. gas)? | | | |
| Have all history/fault logs been recorded? | | | |
| Are there any issues with the battery back - up system? | | | |
| **Overall Assessment** | | | |
| Does the overall condition of the substation facilities and yard meet standards? | | | |

| Signed: | Date: |
|---|---|

# C. NYSDEC Technical Field Guidance Spill Reporting and Initial Notification Requirements

TECHNICAL

FIELD GUIDANCE

# SPILL REPORTING AND INITIAL NOTIFICATION REQUIREMENTS

**NOTES**

## Spill Reporting and Initial Notification Requirements

### GUIDANCE SUMMARY AT-A-GLANCE

- Reporting spills is a crucial first step in the response process.
- You should understand the spill reporting requirements to be able to inform the spillers of their responsibilities.
- Several different state, local, and federal laws and regulations require spillers to report petroleum and hazardous materials spills.
- The state and federal reporting requirements are summarized in Exhibit 1.1-1.
- Petroleum spills must be reported to DEC unless they meet all of the following criteria:
  - The spill is known to be less than 5 gallons; and
  - The spill is contained and under the control of the spiller; and
  - The spill has not and will not reach the State's water or any land; and
  - The spill is cleaned up within 2 hours of discovery.

  All reportable petroleum spills and most hazardous materials spills must be reported to DEC hotline (1-800-457-7362) within New York State; and (1-518 457-7362) from outside New York State. For spills not deemed reportable, it is strongly recommended that the facts concerning the incident be documented by the spiller and a record maintained for one year.
- Inform the spiller to report the spill to other federal or local authorities, if required.
- Report yourself those spills for which you are unable to locate the responsible spiller.
- Make note of other agencies' emergency response telephone numbers in case you require their on-scene assistance, or if the response is their responsibility and not BSPR's.

**NOTES**

### 1.1.1 Notification Requirements for Oil Spills and Hazardous Material Spills

Spillers are required under state law and under certain local and federal laws to report spills. These various requirements, summarized in Exhibit 1.1-1, often overlap; that is, a particular spill might be required to be reported under several laws or regulations and to several authorities. Under state law, all petroleum and most hazardous material spills must be reported to DEC Hotline (1-800-457-7362), within New York State, and to 1-518-457-7362 from outside New York State. Prompt reporting by spillers allows for a quick response, which may reduce the likelihood of any adverse impact to human health and the environment. Yo will often have to inform spillers of there responsibilities.

Although the spiller is responsible for reporting spills, other persons with knowledge of a spill, leak, or discharge is required to report the incident (see Appendices A and B). You will often have to inform spillers of their responsibilities. You may also have to report spills yourself in situations where the spiller is not known or cannot be located. However, it is the legal responsibility of the spiller to report spills to both state and other authorities.

BSPR personnel also are responsible for notifying other response agencies when the expertise or assistance of other agencies is needed. For example, the local fire department should be notified of spills that pose a potential explosion and/or fire hazard. If such a hazard is detected and the fire department has not been notified, call for their assistance immediately. Fire departments are trained and equipped to respond to these situations; you should not proceed with your response until the fire/safety hazard is eliminated. For more information on interagency coordination in emergency situations see Part 1, Section 3, Emergency Response.

Another important responsibility is notifying health department officials when a drinking water supply is found to be contaminated as a result of a spill. It will be the health department's responsibility to advise you on the health risk associated with any contamination.

Exhibits 1.1-1 and 1.1-2 list the state and federal requirements to report petroleum and hazardous substance spills, respectively. The charts describe the type of material covered, the applicable act or regulation, the agency that must be notified, what must be reported, and the person responsible for reporting. New York state also has a emergency notification network for spill situations (e.g., major chemical releases) that escalate beyond the capabilities of local and regional response agencies/authorities to provide adequate response. The New York State Emergency Management Office (SEMO) coordinates emergency response activities among local, state, and federal government organizations in these cases.

**Exhibit 1.1-1**

**State and Federal Reporting Requirements for Petroleum Spills, Leaks, and Discharges**

| Materials Covered | Act or Regulation | Agency to Notify | What Must Be Reported and When | Who Must Report |
|---|---|---|---|---|
| Petroleum from any source | Navigation Law Article 12; 17 NYCRR 32.3 and 32.4 | DEC Hotline 1-800-457-7362 | The notification of a discharge must be immediate, but in no case later than two hours after discharge.<br>1. Name of person making report and his relationship to any person which might be responsible for causing the discharge.<br>2. Time and date of discharge.<br>3. Probable source of discharge.<br>4. The location of the discharge, both geographic and with respect to bodies of water.<br>5. Type of petroleum discharges.<br>6. Possible health or fire hazards resulting from the discharge.<br>7. Amount of petroleum discharged.<br>8. All actions that are being taken to clean up and remove the discharge.<br>9. The personnel presently on the scene.<br>10. Other government agencies that have been or will be notified. | Any person causing discharge of petroleum. Owner or person in actual or constructive control must notify DEC unless that person has adequate assurance that such notice has already been given. |
| All aboveground petroleum and underground storage facilities with a combined storage capacity of over 1100 gallons. | ECL §17-1007; 6 NYCRR §613.8 | DEC Hotline 1-800-457-7362 | 1. Report spill incident within two hours of discovery.<br>2. Also when results of any inventory, record, test, or inspection shows a facility is leaking, that fact must be reported within two hours of discovery. | Any person with knowledge of a spill, leak, or discharge. |
| Petroleum contaminated with PCB. | Chemical Bulk Storage Act 6 NYCRR Parts 595, 596, 597 | DEC Hotline 1-800-457-7362 | Releases of a reportable quantity of PCB oil. | Owner or person in actual or constructive possession or control of the substance, or a person in contractual relationship, who inspects, tests, or repairs for owner. |

**Exhibit 1.1-1**

**State and Federal Reporting Requirements for Petroleum Spills, Leaks, and Discharges (continued)**

| Materials Covered | Act or Regulation | Agency to Notify | What Must Be Reported and When | Who Must Report |
|---|---|---|---|---|
| Any liquid (petroleum included) that if released would be likely to pollute lands or waters of the state. | ECL §17-1743 | DEC Hotline 1-800-457-7362 | Immediate notification that a spill, release, or discharge of any amount has occurred. Owner or person in actual or constructive possession or control of more than 1,100 gallons of the liquid. | |
| Petroleum Discharge in violation of §311(b)(3) of the Clean Water Act | 40 CFR §110.10 (Clean Water Act) | 1. National Response Center (NRC) 1-800-424-8802.<br>2. If not possible to notify NRC, notify Coast Guard or predesignated on-scene coordinator.<br>3. If not possible to notify either 1 or 2, reports may be made immediately to nearest Coast Guard units, provided NRC notified as soon as possible. | Immediate notification as soon as there is knowledge of an oil discharge that violates water quality standards or causes sheen on navigable waters. Procedures for notice are set forth in 33 CFR Part 153, Subpart B, and in the National Oil and Hazardous Substances Pollution Contingency Plan, 40 CFR Part 300, Subpart E. | Person in charge of vessel or on-shore or off-shore facility. |
| Petroleum, petroleum by-products or other dangerous liquid commodities that may create a hazardous or toxic condition spilled into navigable waters. | 33 CFR 126.29 (Ports and Waters Safety Act) | Captain of the Port or District Commander | As soon as discharge occurs, owner or master of vessel must immediately report that a discharge has occurred. | Owner or master of vessel or owner or operator of the facility at which the discharge occurred. |

**Exhibit 1.1-1**

**State and Federal Reporting Requirements for Petroleum Spills, Leaks, and Discharges (continued)**

| Materials Covered | Act or Regulation | Agency to Notify | What Must Be Reported and When | Who Must Report |
|---|---|---|---|---|
| Petroleum or hazardous substance from a vessel, on-shore or off-shore facility in violation of §311(b)(3) of the Clean Water Act. | 33 CFR 153.203 (Clean Water Act) | 1. NRC U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593; 1-800-424-8802.<br>2. Where direct reporting not practicable, reports may be made to the Coast Guard (District Offices), the 3rd and 9th district of the EPA regional office at 26 Federal Plaza, NY, NY 10278; 1-201-548-8730.<br>3. Where none of the above is possible, may contact nearest Coast Guard unit, provided NRC notified as soon as possible. | Any discharger shall immediately notify the NRC of such discharge. | Person in charge of vessel or facility. |

**Exhibit 1.1-2**

**State and Federal Reporting Requirements for Hazardous Substance Spills, Leaks, and Discharges**

| Materials Covered | Act or Regulation | Agency to Notify | What Must Be Reported and When | Who Must Report |
|---|---|---|---|---|
| Any hazardous substance pursuant to Article 37. Does not include petroleum. | Chemical Bulk Storage Act 6 NYCRR Parts 595, 596, 597; ECL 40-0113(d) | DEC Hotline 1-800-457-7362 | Releases of a reportable quantity of a hazardous substance. | Owner or person in actual or constructive possession or control of the substance, or a person in contractual relationship, who inspects, tests, or repairs for owner. |
| Hazardous materials or substances as defined in 49 CFR §171.8 that are transported. (See federal reporting requirements.) | Transportation Law 14(f); 17 NYCRR 507.4(b) | Local fire department or police department or local municipality | Immediate notification must be given of incident in which any of the following occurs as a direct result of a spill of hazardous materials:<br>1. Person is killed.<br>2. Person receives injuries requiring hospitalization.<br>3. Estimated damage to carrier or other property exceeds $50,000.<br>4. Fire, breakage, spillage, or suspected contamination due to radioactive materials.<br>5. Fire, breakage, spillage, or suspected contamination involving etiologic agents.<br>6. Situation is such that, in the judgment of the carrier, a continuing danger to life or property exists at the scene of the incident. | All persons and carriers engaged in the transportation of hazardous materials. |

**Exhibit 1.1-2**
**State and Federal Reporting Requirements for Hazardous Substance Spills, Leaks, and Discharges**
**(continued)**

| Materials Covered | Act or Regulation | Agency to Notify | What Must Be Reported and When | Who Must Report |
|---|---|---|---|---|
| Hazardous materials (wastes included) that are transported, whose carrier is involved in an accident. | Department of Transportation Regulations 49 CFR 171.15; 17 NYCRR Part 924; 17 NYCRR Part 507 | 1. U.S. Department of Transportation 1-800-424-8802<br>2. DEC Hotline 1-800-457-7362<br>3. Rail Carrier <u>On-Duty</u> 518-457-1046 <u>Off-Duty</u> 518-457-6164<br>4. Notify local police or fire department. | Notice should be given by telephone at the earliest practicable moment and should include:<br>1. Name of reporter.<br>2. Name and address of carrier represented by reporter.<br>3. Phone number where reporter can be contacted.<br>4. Date, time, and location of incident.<br>5. The extent of injuries, if any.<br>6. Classification, name and quantity of hazardous materials involved, if available.<br>7. Type of incident and nature of hazardous material involved and whether a continuing danger to life exists at scene.<br>8. Each carrier making this report must also make the report required by §171.16. | Each carrier that transports hazardous materials involves in an accident that causes any of the following as a direct result:<br>1. A person is killed<br>2. A person receives injuries requiring hospitalization<br>3. Estimated damage to carrier or other property exceeds $50,000<br>4. Fire, breakage, spillage, suspected or otherwise involving radioactive material.<br>5. Fire, breakage, spillage, suspected contamination involving etiologic agents.<br>6. Situation is such that carrier thinks it should be reported in accordance with paragraph b. |

**Exhibit 1.1-2**
**State and Federal Reporting Requirements for Hazardous Substance Spills, Leaks, and Discharges**
**(continued)**

| Materials Covered | Act or Regulation | Agency to Notify | What Must Be Reported and When | Who Must Report |
|---|---|---|---|---|
| Reportable quantity of a hazardous substance into navigable waters or adjoining shorelines. Substances are listed in 40 CFR 302.4. | Department of Transportation Regulations 49 CFR §171.16 as authorized by the Hazardous Materials Transportation Act | U.S. Coast Guard National Response Center (NRC), 1-800-424-8802 or 1-202-267-2675 | As soon as person in charge becomes aware of a spill incident, he must notify NRC and provide the following information:<br>1. The information required by 49 CFR §171.15 (see above).<br>2. Name of shipper of hazardous substance.<br>3. Quantity of hazardous substance discharged, if known.<br>4. If person in charge is incapacitated, carrier shall make the notification.<br>5. Estimate of quantity of hazardous substance removed from the scene and the manner of disposition of any unremoved hazardous substance shall be entered in Part (H) of the report required by 49 CFR 171.16 (see above). | Person in charge of aircraft, vessel, transport vehicle, or facility. Must inform NRC directly, or indirectly through carrier. |
| Reportable quantity of a hazardous substance from vessel, on-shore or off-shore facility. Substances and requirements specified in 40 CFR §117.3. | 40 CFR §117.21 as authorized under the FWPCA | NRC 1-800-424-8802. If not practicable report may be made to the Coast Guard (3rd or 9th Districts) District Offices or to EPA, designated On-Scene Coordinator, Region II, 26 Federal Plaza, NY, NY 10278; 1-201-548-8730 | Immediate notification is required. | Person in charge of vessel, or on-shore or off-shore facility |

**Exhibit 1.1-2**
**State and Federal Reporting Requirements for Hazardous Substance Spills, Leaks, and Discharges**
**(continued)**

| Materials Covered | Act or Regulation | Agency to Notify | What Must Be Reported and When | Who Must Report |
|---|---|---|---|---|
| Facilities where a hazardous chemical is produced, used, or stored, and there is a reportable quantity of any extremely hazardous substance as set out in Appendix A to 40 CFR 355 or a CERCLA hazardous substance as specified in 40 CFR 302.4. (This section does not apply to a release that does not go beyond the facility, that emanates from a facility that is federally permitted, is continuous as defined under §103(f) of CERCLA or to any release exempt from CERCLA §103(a) reporting under §101(22) of CERCLA.) | 40 CFR 355.40 (SARA)<br><br>Releases of CERCLA Hazardous Substances are subject to release reporting requirements of CERCLA §103, codified at 40 CFR Part 302, in addition to being subject to the requirements of this Part. | Community emergency coordinator for the local emergency planning committee of any area likely to be affected and the State Emergency Response Commission of any state likely to be affected by the release. If there is no local emergency planning commission notification shall be made to relevant local emergency response personnel. | Immediately notify agencies at left and provide the following information when available:<br><br>1. Chemical name or identity of any substance involved in the release.<br>2. Indication of whether the substance is an extremely hazardous substance.<br>3. An estimate of the quantity released.<br>4. Time and duration of release.<br>5. Medium or media into which the release occurred.<br>6. Known health risks associated with emergency and where appropriate advice regarding medical attention for those exposed.<br>7. Proper precautions/actions that should be taken, including evacuation.<br>8. Names and telephone numbers of person to be contacted for further information.<br><br>As soon as practicable after release, followup notification by providing the following information:<br><br>1. Actions taken to respond to and contain the release.<br>2. Health risks.<br>3. Advice on medical attention for exposed individuals. | Owner or operator of facility |

**Exhibit 1.1-2**
**State and Federal Reporting Requirements for Hazardous Substance Spills, Leaks, and Discharges**
**(continued)**

| Materials Covered | Act or Regulation | Agency to Notify | What Must Be Reported and When | Who Must Report |
|---|---|---|---|---|
| Hazardous liquids transported in pipelines, a release of which results in any circumstances as set out in 195.50(a) through (f). Also any incident that results in circumstances listed in 195.52(g). | 49 CFR 195.50, 195.52 and 195.54 (Hazardous Liquid Pipeline Safety Act). | NRC, 1-800-424-8802 | Notice must be given at the earliest practicable moment and the following information provided:<br>1. Name and address of the operator.<br>2. Name and telephone number of the reporter.<br>3. Location of the failure.<br>4. The time of the failure.<br>5. The fatalities and personal injuries, if any.<br>6. All other significant facts known by the operator that are relevant to the cause of the failure or extent of the damages. | Operator of system. |
| Hazardous wastes in transport | 40 CFR §263.30(a) (RCRA) | 1. Local authorities<br>2. If required by 49 CFR 171.15, notify the NRC at 1-800-424-8802 or 1-202-426-2675<br>3. Report in writing to Director of Hazardous Materials Regulations, Materials Transportation Bureau, Department of Transportation, Washington, DC 20590 | Notification must be immediate.<br>For discharge of hazardous waste by air, rail, highway, or water, the transporter must:<br>1. Give notice as in 49 CFR 161.15 (if applicable).<br>2. Report in writing as in 49 CFR 171.16.<br>Wastes transporter (bulk shipment) must give same notice as required by 33 CFR 153.20. | Transporter by air, rail, highway, or water. |

**Exhibit 1.1-2**
**State and Federal Reporting Requirements for Hazardous Substance Spills, Leaks, and Discharges**
**(continued)**

| Materials Covered | Act or Regulation | Agency to Notify | What Must Be Reported and When | Who Must Report |
|---|---|---|---|---|
| Vinyl Chloride from any manual vent valve, or polyvinyl chloride plants | Clean Air Act<br>40 CFR 61.64 | Administrator of EPA | Within 10 days of any discharge from any manual vent valve, report must be made, in writing, and the following information provided:<br>1. Source, nature and cause of the discharge<br>2. Date and time of the discharge<br>3. Approximate total vinyl chloride loss during discharge<br>4. Method used for determining loss<br>5. Action taken to prevent the discharge<br>6. Measures adopted to prevent future discharges. | Owner or operator of plant. |
| Radioactive Materials | 6 NYCRR §380.7 | Commissioner of DEC | 1. Notify immediately by telephone when concentration, averaged over a 24-hour period, exceeds or threatens to exceed 5000 times the limits set forth in Schedule 2 of 380.9 (in uncontrolled areas).<br>2. Notify within 24 hours by telephone when concentration, averaged over 24- hour period, exceeds or threatens to exceed 500 times the limits set forth in Schedule 2 above (in uncontrolled areas).<br>3. Report within 30 days the concentration and quantity of radioactive material involved, the cause of the discharge, and corrective steps taken or planned to ensure no recurrence of the discharge. | Operator of the radiation installation. |

**Exhibit 1.1-2**
**State and Federal Reporting Requirements for Hazardous Substance Spills, Leaks, and Discharges**
**(continued)**

| Materials Covered | Act or Regulation | Agency to Notify | What Must Be Reported and When | Who Must Report |
|---|---|---|---|---|
| Low Level radioactive wastes in transport. Any suspected or actual uncontrolled releases. | 6 NYCRR 381.16 ECL §27-0305 Waste Transporter Permits | DEC and Department of Health | Immediate notification. | Transporter |

TECHNICAL

FIELD GUIDANCE

# SPILL REPORTING AND INITIAL NOTIFICATION ENFORCEMENT OF SPILLER RESPONSIBILITY

**NOTES**

## Spill Reporting and Initial Notification - Enforcement of Spiller Responsibility

### GUIDANCE SUMMARY-AT-A-GLANCE

# Use the "Notification Procedures Checklist" (Exhibit 1.1-3) to document conversations with the responsible party or potentially responsible party (PRP/RP) concerning his or her clean-up responsibilities.

# The steps to follow when you inform the PRP/RP of his or her legal responsibility are:

-- Give your name and identify yourself as a DEC employee;

-- Inform them that they have been identified as the party responsible for the spill;

-- Inform PRP/Rps of their liability for all clean-up and removal costs. (If necessary, cite Section 181 of the Navigation Law);

-- Ask PRP/Rps "point blank" if they will accept responsibility for the cleanup; and

-- If the PRP/RP does not accept responsibility, or does not admit to being the PRP/RP, inform him or her that DEC will conduct the cleanup and send the bill to whoever is the PRP/RP. Also inform them that a DEC-conducted cleanup could be more costly than a PRP/RP-conducted cleanup, and that the PRP/RP could face interest charges and penalties for refusing to clean up the spill.

# If the PRP/RP accepts responsibility for the cleanup:

(1) Send the PRP/RP a "Spiller Responsibility Letter" (Exhibit 1.1-5) and an "Acceptance of Financial Responsibility Form" (Exhibit 1.1-6) and

(2) Send the PRP/RP an "Option Letter," which should outline the options available to the PRP/RP to clean up the spill. See Exhibit 1.1-4 for a summary of how and when to use these forms and what they may include.

**NOTES**

### 1.1.2 Spill Reporting and Initial Notification - Enforcement of Spiller Responsibility

This section provides guidance on those steps you take to inform responsible parties or potentially responsible parties (PRP/Rps) or spillers of their responsibility under state law for cleaning up spills. This guidance applies to all contacts (by phone, by mail, or in person) you have with Rps throughout the response process concerning their fulfillment of this legal responsibility. The possible consequences of an RP's refusal or inability to conduct the spill response are also discussed.

#### 1. State Law and Policy

Under Article 12 of the Navigation Law and Article 71 of the Environmental Conservation law (ECL), those parties responsible for a petroleum release are liable for all costs associated with cleaning up the spill as well as third party damages (see Introduction-A for more information). Section 181 of the Navigation Law states:

> *Any person who has discharged petroleum shall be strictly liable, without regard to fault, for all cleanup and removal costs and all direct damages, no matter by whom sustained as defined in this section.*

There are two ways by which PRP/RPs can pay for the costs associated with cleanups. First, the PRP/RP can reimburse the state for site investigation, clean-up, and remediation costs incurred by the State Oil Spill Fund or federal Leaking Underground Storage Tank (LUST) Trust Fund. Second, the PRP/RP can assume full responsibility for the cleanup from the beginning and bear all costs throughout the clean-up process. It is DEC's policy to make every effort to have PRP/RPs pay for cleanups from the outset.[1]

To achieve PRP/RP-directed and PRP/RP-financed cleanups, your responsibilities are to: (1) identify the PRP/RP(s), (2) inform them of their legal responsibilities for the spill, and (3) ensure that they carry out these responsibilities. All investigations of spills and PRP/RPs should be pursued vigorously and without prejudice. Use to your advantage the argument that having the PRP/RP assume responsibility for clean-up costs benefits both DEC and the spiller. It saves DEC the expense of cost-recovery procedures. It also allows the PRP/RP to be more involved in clean-up decisions (e.g., choosing their clean-up contractors) and, more significantly, it usually results in lower clean-up costs. Because the PRP/RP is responsible for all indirect costs incurred if DEC conducts the cleanup, the spiller will pay for the DEC contractor's clean-up work, as well as the supervision costs incurred by DEC, any third-party claims associated with the spill, and any punitive fines levied.

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[1] Spillers are not only responsible for assuming the costs of a cleanup, but also can be subject to a $25,000 per day fine for not paying the clean-up costs (among other violations). The Navigation Law provides for these penalties in Section 192, which states:

> Any person who knowingly gives or causes to be given any false information as a part of, or in response to, any claim made pursuant to this article for cleanup and removal costs, direct or indirect damages resulting from a discharge, or who otherwise violates any of the provisions of this article or any rule promulgated thereunder or who fails to comply with any duty created by this article shall be liable to a penalty of not more than twenty-five thousand dollars for each offense in court of competent jurisdiction. If the violation is of a continuing nature each day during which it continues shall constitute an additional, separate, and distinct offense. (emphasis added)

**NOTES**

## 2. Notification Process

Part 1, Section 4, of this manual discusses the process of identifying the PRP/RP as part of the spill investigation for a particular site. Once you identify the PRP/RP, follow the guidance provided below for informing the PRP/RP of his or her responsibilities for spill cleanup. If you are uncertain about who the PRP/RP is, apply the procedures outlined below with all suspected RPs until the responsible party or parties are identified.

### a. Informing RPs of Their Responsibility at the Spill Scene

It is important to inform PRP/RPs of their legal responsibility to clean up a spill as soon as possible. When you arrive at a spill site, you should immediately inform the representative of any PRP/RP of their liability under the Navigation Law and the Environmental Conservation Law. In doing so, follow the steps covered in the "Notification Procedures Checklist" (Exhibit 1.1-3).

Document completion of the notification steps, and identify your contact(s).

Although you should be firm and direct in informing the PRP/RP of their responsibility, you should make every attempt to avoid an adversarial relationship with the RP. The full cooperation of the PRP/RP will result in a more efficient and effective cleanup.

### b. Informing Spillers of Their Responsibility in Writing

You should send three different letters to the PRP/RP to inform them of their responsibility (see Exhibit 1.1-4, "Notification Forms Summary"). If a site response was initiated and you are able to confirm the spill visually, the "Spiller Responsibility Letter" (Exhibit 1.1-5) along with an "Acceptance of Financial Responsibility Form" (Exhibit 1.1-6) should be sent as soon as possible. In addition, an "Option Letter" that informs the PRP/RP of their possible options for addressing a spill should be sent. These letters should be kept as part of the Corrective Action Plan (CAP) (see Part 1, Section 5, "Corrective Action Plans.")

**Exhibit 1.1-3**
**Notification Procedures Checklist**

| Completed | Step | Date | Contact(s) |
|---|---|---|---|
| _____ | 1. Give your name and identify yourself as a DEC employee. | | |
| _____ | 2. Inform the PRP/RP that he/she has been identified as the party responsible for the spill. | | |
| _____ | 3. Inform PRP/RPs of their responsibility to pay for all clean-up costs. (As necessary, cite Section 181 of the Navigation Law or Article 71 of the ECL.) | | |
| _____ | 4. Ask PRP/RPs "point blank" if they will accept responsibility for the cleanup.<br><br>Response:<br>_____<br>_____<br>_____<br>_____<br>_____ | | |
| _____ | 5. If the PRP/RP does not accept responsibility, or does not admit to being the spiller, inform him/her that DEC will conduct the cleanup and send the bill to whoever is the spiller. | | |
| _____ | 6. If the PRP/RP does not accept responsibility also inform him or her that a DEC-conducted cleanup could be more costly than a spiller-conducted cleanup, and that the spiller could face interest charges and a fine for refusing to pay for the billed clean-up costs. | | |

**Exhibit 1-A-4**

**Notification Forms Summary**
**(Send Forms by Certified Mail)**

| Notification Form | When and How to Use | Information to be Included |
|---|---|---|
| Spiller Responsibility Letter | Send by certified mail to PRP/RP for confirmed spill. | # Spill location;<br># Spiller's responsibility under the Navigation Law;<br># Penalties that can be levied if the spiller does not cooperate; and<br># Deadline for spiller to begin containment and removal of the spill. |
| Acceptance of Spiller Responsibility Form | Send by certified mail to PRP/RP for confirmed spill. | # Request for spiller's signature acknowledging his or her acceptance of responsibility for the spill cleanup. |
| Option Letter | Send by certified mail to PRP/RP for confirmed or suspected release (e.g., failed tightness test). | # Spill number;<br># Date spill was discovered or reported;<br># Exact location of the spill;<br># Authority of Article 12 of the Navigation Act; and<br># Penalties for noncompliance. |

Exhibit 1.1-5

Spiller Responsibility Letter

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[Date]

[Addressee]
[Address]

Dear [ ]:

This is to inform you that as a result of investigation by our Department, we consider you responsible for Petroleum Spill Number _____, dated _____, at _____. Under Article 12 of the Navigation Law, Section 192, any person who discharges petroleum without a permit and fails to promptly clean up such prohibited discharge may be subject to a penalty of up to $25,000 a day.

Containment and removal of this spill must be initiated within _____ hours.

Your failure to initiate timely spill cleanup and removal, in addition to the penalty stated above, will result in your being billed for all actual costs incurred by New York State as set forth in Section 181 of the Navigation Law. These costs include cleanup and removal, all direct and indirect damages, including damages incurred by third parties.

Sincerely,

Regional Spill Engineer
Region

---

Exhibit 1.1-6
Acceptance of Spiller Responsibility Letter

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[Date]

SPILL #_____

ACCEPTANCE OF FINANCIAL RESPONSIBILITY

_____, hereby assumes responsibility for containment and
(Name of Company and Person)

cleanup of _____ discharged from_____
(Substance) (Source)

on _____, and recognizes that the determination of the adequacy and propriety of
(Date)

the containment and cleanup operation continues to rest with the New York State

Department of Environmental Conservation On-Scene Coordinator.

_____
(Authorized Signature and Title)

_____
(Name and Title Printed)

_____
(Address of Company)

_____
(Date and Time)

_____
(Witness)

NOTES

The "Spiller Responsibility Letter" informs spillers of their responsibility under the Navigation Law and explains the penalties that can be levied if the spiller does not cooperate. It should be sent to the spiller or suspected spiller as soon as a petroleum spill has been confirmed. The letter notifies the spiller that he or she is required to initiate containment and removal of the spill within a period of time you specify.

There are at least three factors you should consider when specifying a deadline in this letter:

# The size and nature of the spill;

# The proximity of the spill to, or its possible effects on, water supplies (surface or ground water), nearby homes and other structures, and/or sensitive environmental areas; and The possible environmental, safety, and/or human health effects of delaying containment and removal.

The "Acceptance of Spiller Responsibility Form" requires the spiller's signature acknowledging his or her responsibility for containment and cleanup of the spill. This form and the "Spiller Responsibility Letter" should be sent by certified mail.

The "Option Letter" outlines the possible options available to the PRP/RP for cleanup of the spill. The contents of this letter can vary somewhat depending on how the release was discovered (e.g., through a complaint or a failed tightness test), the extent and type of spill, and the policies and procedures of your regional office. There is, however, some information that should appear in every "Option Letter." All "Option Letters" should contain the following: spill number, date the spill was discovered, and exact location of the spill. In addition, the letter should cite the response authority provided DEC by Article 12 of the Navigation Act and describe the penalties for noncompliance.

Each "Option Letter" should outline clearly the options open to the PRP/RP to address the spill and the information you wish submitted, and may also specify certain deadlines for taking action. However, it is up to you to determine the particular options, information requirements, and dates you include in the letter. Depending on the circumstances, you may list in your letter one or several options from which the PRP/RP can choose. For example, when an UST fails an initial tank test the following options could be included:

# Conduct separate integrity tests on the piping and the tanks in order to verify the release source within the tank system.

# Remove the "non-tight" tank and either remove and dispose of all contaminated soils, or install monitoring wells.

NOTES

# Install monitoring wells and abandon the "non-tight" tank in-place.

# Remove the tank within 30 days, according to the requirements for tank removal (outline these requirements in the letter).

The "Option Letter" should always be sent by certified mail. In addition, you should have the PRP/RP inform you as soon as possible about the option(s) he or she has chosen.

Several examples of possible "Option Letters" are included as Exhibits 1.1-7 through 1.1-12. These are provided as examples only; you should use "Option Letters" developed by your own office, or develop your own.

Exhibit 1.1-7 is a sample option letter to an PRP/RP for removal of contaminated soil from an UST release. Note that this option letter includes: (a) specific requirements for removal of the contaminated soil; (b) dates for when the removal must be completed, and (c) requirements for the PRP/RP to forward to DEC copies of the landfill disposal receipt and ample test results. The additional sample option letters apply to the following situations: when an UST has failed an initial tightness test (Exhibit 1.1-8), when an UST fails an isolation tank test (Exhibit 1.1-9), when an UST fails a Petro-tite Systems Test (Exhibit 1.1-10), and ground-water contamination cleanup (Exhibit 1.1-11).

## 3. Dealing with Uncooperative Spillers

There are generally two ways in which an PRP/RP may fail to fulfill his or her legal responsibilities for spill cleanup: (1) a PRP/RP may refuse from the beginning to accept responsibility, or (2) an PRP/RP may fail to conduct a cleanup in the manner, or in as timely a fashion, as agreed upon with the DEC. If a PRP/RP refuses to cooperate from the outset, try again to change the RP's mind. Send additional notices of spiller responsibility (Exhibit 1.1-12) and/or initiate phone conversations with PRP/RPs to inform them again of the consequences of not cooperating (i.e., higher clean-up costs and possible penalties). If a party claims not to be the PRP/RP, you should inform them of your reasons for believing they are the PRP/RP under the Navigation Law.

If a PRP/RP agrees to conduct and pay for the cleanup and then does not proceed in the manner agreed upon or as quickly as agreed upon, you should inform the PRP/RP immediately that you are dissatisfied with the progress of the cleanup and that DEC is considering taking it over. There are no hard-and-fast rules for deciding when you should take over a cleanup. If possible, you should always work toward having the PRP/RP continue the cleanup in the agreed-upon manner. Attempt to determine why the cleanup is not proceeding as planned and consider means of helping the PRP/RP-directed cleanup get back on track.

**Exhibit 1.1-7**

Sample Option Letter:
Soil Cleanup Spill

[Date]

[Addressee]
[Address]

Dear [ ]:

This letter is to confirm your - (site meeting) (telephone conversation) with _____ of this Department on _____,
(Name) (day) (date) (year)
in regards to the above-mentioned spill site. This site involves _____
(explanation)
The following items were discussed and agreed upon:

1. All contaminated material must be removed and stored on site until it can be properly disposed of at a properly permitted landfill.

2. All contaminated material must be sampled for _____ _____. The results must be
(analyses)
negative for the material to be considered non-hazardous oily debris. You must contact your selected sanitary landfill to verify the sample analyses that they require for disposal.

3. A hauler with a Part 364 permit must be used to haul the contaminated soil to your selected landfill.

4. Please notify this Department after the work is completed but prior to any backfilling of the spill area so that an inspection of the excavation may be made.

5. Please forward to us a copy of the landfill disposal receipt and the sample results.

A schedule for this work is required by _____.
(day) (date) (year)
Cleanup must be performed by no later than _____.
(day) (date) (year)

If you have any questions, please feel free to contact _____
(Name)
at 847-4590. Your cooperation will be appreciated.

Very truly yours,

Senior Sanitary Engineer

**Exhibit 1.1-8**

Sample Option Letter:
Initial Tank Failure

---

[Date]

[Addressee]
[Address]

Dear [ ]:

This Department received notification on _____ that (a)
(day) (date) (year)
_____ tank(s) failed its (their) tank test performed by
(gallons) (product stored)
_____. On _____, Mr._____ of this Department
(contractor) (date) (name)
discussed with _____ that one of the following options must be done concerning this tank.
(person)

OPTION 1:

1. The tank is to be immediately isolated from the piping and is to be retested. If the tank tests tight, it may remain in service.
2. The lines are to be repaired, if necessary, and retested by a state-approved method. Exposed piping may be air tested.
3. A copy of any test results are to be sent to this office.

OPTION 2: If the tank fails the retest, or if you decide not to retest, the following must now be done:

1. All product must be immediately removed from the tank.
2. The tank itself must be removed within thirty days. A Petroleum Bulk Storage form must be submitted to this Department prior to tank removal.
3. The interior surface of the tank must be cleaned, and all sludge and residue generated by this process must be properly disposed. The tank must be cut open to allow for this work and to ensure proper ventilation of the tank interior.
4. All safety precautions regarding the opening, cleaning and entering of the tank must be followed. The interior atmosphere of the tank may be explosive and proper procedures must be followed.
5. Once the tank has been cleaned out, it may be disposed as scrap.

Mr._____ must be notified when you have a firm date for retesting or removal. Please note, we must be present when this tank is removed to determine if any groundwater or soil contamination exists. If groundwater or soil contamination is found, further remedial work will be required.

If you have any questions, please contact_____ at 847-4590. Your cooperation will be appreciated.

Sincerely,

[ ]

**Exhibit 1.1-9**

Sample Option Letter:
Retest Failure, Tank Removal

---

[Date]

[Addressee]
[Address]

Dear [ ]:

On_____, a _____gallon _____, underground store storage tank at the
(day) (date) (year) (#) (material)
above-mentioned address failed a system tank test. On_____, this tank failed an isolation tank test.
(day) (date) (year)

Since the tank failed the retest, the following must now be done:

1. All product must be immediately removed from the tank.

2. The tank itself must be removed within thirty days. A Petroleum Bulk Storage form (enclosed) must be submitted to this Department prior to tank removal.

3. The interior surface of the tank must be cleaned, and all sludge and residue generated by this process must be properly disposed. The tank must be cut open to allow for this work and to ensure proper ventilation of the tank interior.

4. All safety precautions regarding the opening, cleaning and entering of the tank must be followed. The interior atmosphere of the tank may be explosive and proper procedures must be followed.

5. Once the tank has been cleaned out, it may be disposed as scrap.

_____of this Department must be notified when you have a firm
(Name)
date for removal. We must be present when this tank is removed to determine if any groundwater or soil contamination exists. If groundwater or soil contamination is found, further remedial work will be required.

For your use, enclosed is a list of contractors that are known by this Department to do this type of work. This list is by no means complete. Any contractor may be used by you for this work.

If you have any questions, please feel free to call _____at 847-4590.
(Name)
Your cooperation will be appreciated.

Sincerely,

[ ]

**Exhibit 1.1-10**

Sample Option Letter:
Failed Tank Test

[Date]

CERTIFIED - RETURN RECEIPT REQUESTED

[Addressee]
[Address]

RE: Spill No.

Gentlemen:

This office has been informed by (Name) that (tank) failed a Petrotite systems test. In accordance with Article 12 of the New York State Navigation Law, I must determine if there has been any harm to the lands or the groundwater of the State. In order for me to make this determination, you have three options:

1. Prove that it was not a leaking tank by removing all the piping from the tank and separately Petrotite test the tank. If the tank passes the Petrotite test, it is a piping leak. The tank may then be abandoned or the piping can be repaired, attached to the tank, and the system Petrotite tested.

2. Excavate and remove the tank in the presence of a representative from this office so that an inspection of the tank and the soil can be made. If the tank is sound, and there is no evidence of product loss, nothing further need be done. If there is a problem, proceed as in 3 below.

3. Abandon the tank in-place and install several four (4) inch diameter PVC site wells extending five (5) feet into the groundwater with a screen length of ten (10) feet, with slot size of .020 inches. The exact location and number of wells will be determined by a representative from this office. These wells will be checked for a period of twelve months by New York State, and if there is no evidence of product for that period, the spill will be removed from our listing. If free or dissolved product appears, cleanup must begin immediately.

If cleanup does not begin by (Date) by the responsible party, the State will begin the cleanup and bill the responsible party.

Sincerely,

[ ]

**Exhibit 1.1-11**

Sample Option Letter:
Ground-water Cleanup

[Date]

[Addressee]
[Address]

Dear [ ]:

This letter is to confirm your (site meeting) (telephone conversation) with (Name) of this Department on (day) (date) (year). Groundwater at this spill site is contaminated with (free floating oil) (dissolved oil components). The following items were discussed and agreed upon:

1. (#) additional four-inch monitoring wells will be installed at the agreed upon locations. A sketch of a typical monitoring well is enclosed for your use.

2. One recovery well will be installed to recover oil product. Groundwater must be pumped to depress the groundwater table. The groundwater must be pumped to an oil-water separator tank. Accumulated oil may be recovered from the well by bailing or by a second pump. A second type of recovery well pumps both oil and water to a separator tank. Oil from the tank is then recovered. You should check with your contractor to determine the best method for the recovery well. Groundwater must be pumped to depress the groundwater table.

3. The discharge water must be sampled for (Contaminates) . Dependent upon the sampling results, it may be discharged with a SPDES permit to (Name). The water must at all times be sheenless. An air stripper or a carbon filter may be necessary for the discharge water.

4. All collected oil must be properly disposed. Copies of receipts indicating the disposal site must be forwarded to this office.

It was also agreed that these actions be completed by (Date). Should you have any questions, please do not hesitate to contact (Name) at 847-4590. Your cooperation will be appreciated.

Sincerely,

[ ]

**Exhibit 1.1-12**

Sample Option Letter:
Soil Disposal, Soil Still On Site

[Date]

[Addressee]
[Address]

Dear [ ]:

A recent inspection by (Name) of this office indicated that the contaminated soil at your facility still remains on site. We are requesting this oil be removed by (day) (date) (year) to an acceptable landfill. Please send a copy of the disposal receipt to this office.

If you cannot remove the soil by that date, please contact this office immediately. If you do not contact this office and the soil still remains on site past (Date), DEC will have the soil removed from your site. You will then be billed for the costs of removal and disposal as well any relevant penalties.

If you have any questions, please feel free to contact (Name) at 847-4590. Your cooperation will be appreciated.

Very truly yours,

Senior Sanitary Engineer

**NOTES**

If all efforts to encourage a PRP/RP to continue the cleanup fail, send a certified letter (Exhibit 1.1-13) notifying them that their actions have been unsatisfactory and that DEC will assume responsibility for the cleanup. This letter again informs the PRP/RP of his or her liability for all costs incurred by DEC during its cleanup.

**Exhibit 1.1-13**

Unsatisfactory Cleanup Notice Letter

[Date]

CERTIFIED MAIL SPILL #

[Addressee]
[Address]

Dear Sir:

My letter of (Date) notified you of New York State's interest in a pollution incident for which you are presently considered responsible.

You are hereby given notice that your actions to remove the pollutant and mitigate its effects have been evaluated as unsatisfactory. Effective (Date), the New York State Department of Environmental Conservation will conduct all cleanup activities under the authority of Article 12 of the Navigation Law. Removal will be effected in accordance with the regulations of the Department of Environmental Conservation. You will be billed for all actual costs incurred by New York State as set forth in Section 181 of the Navigation Law, as well as interest and penalties.

Should you require further information concerning this matter, contact: (Name)
.

Sincerely,

[ ]

Received and Acknowledged

_____ _____ _____
Time Date

**TECHNICAL**

**FIELD GUIDANCE**

# SPILL REPORTING AND INITIAL NOTIFICATIONS - ACCESS AND RIGHT-OF-ENTRY

**NOTES**

## Spill Reporting and Initial Notifications - Access and Right-of-Entry

### GUIDANCE SUMMARY AT-A-GLANCE

**#** Section 178 of the Navigation Law gives you the authority to enter private property to investigate or clean up a suspected spill.

# In general, you should inform the property owner of your right to enter onto private property and obtain consent from the owner. This consent can be either written or verbal.

# Detailed information and procedures for access and right-of-entry is considered confidential for spill responders. This information is contained in Appendix L, and is marked confidential.

**NOTES**

1.1.3 Access and Right-of-Entry

This section addresses the right of NYSDEC personnel to enter private property on which a spill has occurred or is suspected, for the purpose of investigating, containing, and/or cleaning up the spill. Detailed information and procedures of access and right-of-entry are considered confidential. Therefore, this information can be found in Appendix L, including your legal rights to enter property and the procedures to follow to ensure that no charges of trespassing are brought against the Department.

1. State Law and Policy

You have the authority, under the Navigation Law, to enter property to investigate or clean up a real or suspected spill. Specifically, Section 178 of the Navigation Law states:

> *The department is hereby authorized to enter and inspect any property or premises for the purpose of inspecting facilities and investigating either actual or suspected sources of discharges or violation of this article or any rule or regulations promulgated pursuant to this article. The department is further authorized to enter on property or premises in order to assist in the cleanup or removal of the discharge. Any information relating to secret processes or methods of manufacture shall be kept confidential.*

In any emergency or non-emergency, you must possess information supporting a reasonable belief to suspect that a spill has occurred or is occurring, or that the spill is impacting the premises for which access is sought. A reasonable belief may be based on a report of a spill or visual observation. For example, if a gasoline station operator reports an unexpected loss of product from his underground storage tanks that are located near private household wells, you might want to investigate those wells and check the water.

Although you have the authority to enter the premises, *it is always advisable to obtain the consent of the property owner or his or her agent before entering the property.* This consent can be either written or verbal. Obtaining this consent may help avoid civil or criminal charges for trespass being logged. In cases where the owner/agent is not available or not ascertainable, entry should be made.

# D. Spill Log and Reporting Forms

## Preliminary Spill Log – South Ripley Solar Project

| Date | Time | Logged by: | Source of Spill (Container / Equipment) | Quantity Removed | Method of Removal | Was Spill Reportable? | What Agencies was Spill Reported to? |
|---|---|---|---|---|---|---|---|
| | | | | | | | |
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**Preliminary SPILL REPORT FORM – South Ripley Solar Facility**

| | |
|---|---|
| **Spill Reported By:** | **Date:** |
| **Phone Number:** | **Time:** |
| **Project Managers:** | |
| **LOCATION: SOUTH RIPLEY SOLAR FACILITY** | |
| | |
| **SPILL DESCRIPTION:** | |
| **Discharge/Discovery Date & Times:** | |
| **Material Spilled:** | |
| | |
| **Amount Spilled:** | |
| | |
| **Media Affected (Soil, Water, Other with specifics):** | |
| | |
| | |
| **Source of the Spill:** | |
| | |
| **CAUSE OF THE SPILL:** | |
| | |
| | |
| **DAMAGES or INJURIES (SPECIFY):** | |
| | |
| | |
| **RESPONSE ACTIONS TAKEN:** | |
| | |
| | |
| **OTHER ORGANIZATIONS AND INDIVIDUALS CONTACTED:** | |
| ☐ **National Response Center Time:** | |
| ☐ **Cleanup Contractor (Specify) & Time:** | |
| ☐ **Facility Personnel (Specify) & Time:** | |
| ☐ **NYS DEC Spill Hotline Time:** | |
| ☐ **Other (Specify) & Time:** | |

# E. Training Log

## Preliminary Training Log – South Ripley Solar Project

**Date of Training:**

**Description of Training:**

**Personnel Trained:**

| Name | Signature |
|---|---|
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# F. Material Safety Data Sheets (SDS)

*(To be provided and maintained during Project construction)*

mottmac.com