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## Spill Prevention, Control, and Countermeasure (SPCC) Rule Amendments

### Delay of Effective Date and Request for Comment on SPCC Requirements Finalized in December 2008 – Final Rule

On January 29, 2009, in accordance with the January 20, 2009, White House memorandum entitled “Regulatory Review” and the Office of Management and Budget memorandum entitled, “Implementation of Memorandum Concerning Regulatory Review,” EPA is delaying by 60 days the effective date of the final rule that amends the Spill Prevention, Control, and Countermeasure (SPCC) regulations promulgated in the *Federal Register* on December 5, 2008. The amendments become effective on April 4, 2009 (74 FR 5900).

Additionally, EPA is requesting public comment on the delay of the effective date and on the requirements for produced water containers at oil production facilities and the criteria for identification of qualified oil production facilities eligible to self-certify their SPCC Plans. Comments must be received by March 5, 2009. Finally, the Agency is also reviewing the dates by which owners or operators of facilities must prepare or amend their SPCC Plans, and implement those Plans.

Neither this delay, nor the December 5, 2008, final rule remove any regulatory requirement for owners or operators of facilities in operation before August 16, 2002, to maintain an SPCC Plan in accordance with the SPCC regulations.

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### What changes did EPA finalize in the December 2008 amendments?

#### **Exemptions**

The revised rule exempts:

- Hot-mix asphalt and hot-mix asphalt containers;
- Residential heating oil containers (i.e., those used solely at single-family residences);
- Pesticide application equipment and related mix containers;
- Underground oil storage tanks that supply emergency diesel generators at nuclear power generation facilities licensed by the Nuclear Regulatory Commission;
- Intra-facility gathering lines subject to U.S. Department of Transportation’s pipeline regulations; and
- Produced water containers that do not contain oil in harmful quantities (as certified by a Professional Engineer (PE)).

#### **Streamlining and Additional Flexibility for All Regulated Facilities**

The revised rule:

- Provides a Plan template for certain qualified facilities to complete and self-certify;
- Extends “qualified facility” status to certain smaller oil production facilities;
- Amends the definition of “facility” to clarify the flexibility associated with describing a facility’s boundaries;
- Amends the facility diagram requirement to clarify how containers (fixed and mobile) and complex piping/transfer areas are identified on the facility diagram;
- Defines “loading/unloading rack” to clarify the equipment subject to the provisions for facility tank car and tank truck loading/unloading racks;

- Amends the general secondary containment requirement;
- Exempts non-transportation-related tank trucks from sized secondary containment requirements;
- Amends the facility security requirements to allow the facility owner/operator to tailor security measures to the facility's specific characteristics and location; and
- Amends integrity testing requirements for bulk storage containers to allow greater flexibility in the use of industry standards at all facilities.

### ***What sector-specific changes did EPA finalize?***

**Agriculture.** The rule exempts pesticide application equipment and related mix containers that may currently be subject to the SPCC rule when crop oil or adjuvant oil are added to formulations. The rule exempts farms from loading rack requirements. EPA also clarifies that a nurse tank is considered a mobile refueler, and, like other types of mobile refuelers, is exempt from the sized secondary containment requirements. Additionally, farms are likely to benefit from several of the other amendments finalized in this rule.

**Oil Production Facilities.** The revised rule finalizes several amendments to tailor the requirements for oil production facilities. The rule:

- Modifies the definition of production facility;
- Extends the timeframe by which a new oil production facility must prepare and implement an SPCC Plan;
- Establishes alternative criteria for certain marginal, oil production facilities to be eligible to self-certify an SPCC Plan as a qualified facility;
- Exempts certain produced water containers and any associated piping and appurtenances downstream from the container that do not contain oil in harmful quantities, as certified by a PE;
- Exempts production facilities from loading rack requirements;
- Provides an alternative option for flow-through process vessels to comply with the general secondary containment requirement and additional oil spill prevention measures in lieu of sized secondary containment requirements;
- Exempts certain intra-facility gathering lines subject to the U.S. Department of Transportation's (DOT's) pipeline regulations;
- Provides an optional exemption from all secondary containment requirements for flowlines and intra-facility gathering lines, and establishes more specific requirements for a flowline/intra-facility gathering line maintenance program and contingency planning;
- Provides compliance alternatives to sized secondary containment for produced water storage containers that are not otherwise exempt; and
- Clarifies the definition of "permanently closed."

**Animal Fats and Vegetable Oils.** EPA has amended the integrity testing requirements for containers storing certain types of animal fat or vegetable oil, to provide the flexibility to determine the scope of integrity testing that is appropriate, based on compliance with certain FDA regulations and other criteria.

**Qualified Facilities.** EPA streamlined and tailored the SPCC requirements for a subset of qualified facilities. The owner or operator of a qualified facility has the option to self-certify his SPCC Plan and comply with other streamlined requirements. This final rule designates a subset of qualified facilities ("Tier I qualified facilities") as those that meet the current qualified facilities eligibility criteria and that have no individual aboveground oil storage containers with a capacity greater than 5,000 U.S.

gallons. A Tier I qualified facility has the option to complete a self-certified SPCC Plan template instead of a full SPCC Plan. By completing the SPCC Plan template, an owner or operator of a Tier I qualified facility will certify that the facility complies with a set of streamlined SPCC rule requirements. All other qualified facilities will be designated "Tier II qualified facilities."

### Who is subject to the SPCC rule?

**The SPCC rule applies to owners or operators of non-transportation-related facilities that:**

- Drill, produce, store, process, refine, transfer, distribute, use, or consume oil or oil products; and
- Could reasonably be expected to discharge oil to U.S. navigable waters or adjoining shorelines.

**Facilities are subject to the rule if they meet at least one of the following capacity thresholds:**

- Aboveground oil storage capacity greater than 1,320 U.S. gallons, or completely buried oil storage capacity greater than 42,000 U.S. gallons.

**The following are exempt from the rule:**

- Containers with a storage capacity less than 55 U.S. gallons of oil;
- Permanently closed containers;
- Motive power containers;
- Wastewater treatment facilities;
- Hot-mix asphalt and hot-mix asphalt containers;
- Residential heating oil containers;
- Pesticide application equipment and related mix containers;
- Produced water containers and any associated piping and appurtenances downstream of the container that meet certain criteria;
- Completely buried storage tanks subject to all the technical requirements of the underground storage tank regulations;
- Intra-facility gathering lines subject to U.S. Department of Transportation's pipeline regulations; and
- Underground oil storage tanks at nuclear power generation facilities.

### For More Information

**Read the final SPCC rule amendment:**

[http://www.epa.gov/emergencies/content/spcc/spcc\\_nov08amend.htm](http://www.epa.gov/emergencies/content/spcc/spcc_nov08amend.htm)

**Comment on the final SPCC rule amendment and review docket documents:**

<http://www.regulations.gov>. Follow the online instructions to comment on Docket ID No. EPA-HQ-OPA-2007-0584

**Review the Oil Pollution Prevention regulation (40 CFR part 112):**

<http://www.gpoaccess.gov/cfr/>

**Call the Superfund, TRI, EPCRA, RMP, and Oil Information Center:**

(800) 424-9346 or (703) 412-9810

TDD (800) 553-7672 or (703) 412-3323

<http://www.epa.gov/superfund/resources/infocenter>

### To Report an Oil or Chemical Spill

**Call the National Response Center:**

(800) 424-8802 or (202) 267-2675

TDD (202) 267-4477