

# SPILL PREVENTION PLANS

SPCC PLAN: SUBSTANTIAL REVISIONS AND NEW COMPLIANCE DEADLINE PROPOSED

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*Deadline  
Extension*

*Oil Storage*

*Evolving  
Program*

*Key Revisions*

□ EPA recently proposed substantial amendments to the federal Spill Prevention, Control and Countermeasure (SPCC) regulations. In addition, EPA has proposed to offer an additional extension to the deadline by which facilities must amend and implement their SPCC plans.

The federal SPCC program requires that facilities with greater than a threshold quantity of oil stored onsite, and that could potentially impact navigable waters as the result of a spill, prepare and maintain an SPCC Plan intended to prevent and control oil spills. The SPCC program was initially established in rules issued on December 11, 1973. Since that time the program has gone through numerous technical changes. In 2002, however, EPA implemented major changes to the program with an effective date of August 17, 2002. These changes included the addition of an exemption for aboveground containers (including tanks, totes, machinery) with storage capacity of less than 55 gallons, clarification of the applicability of SPCC requirements to process equipment holding oil, enhanced tank integrity testing requirements, an exemption for tank systems subject to UST rules and separate rules applicable to animal and vegetable oils. The rules required that existing facilities revise their SPCC plans consistent with the new rules by February 17, 2003 and that the new plans be fully implemented no later than August 18, 2003. EPA ultimately issued two extensions to the deadline for revising and implementing SPCC plans (see Wood, *Insiders* #312 & #347).

## Qualified Facilities

EPA has now proposed several key revisions to the SPCC regulations that could offer significant regulatory relief for smaller facilities. A primary aspect of the proposed revisions is to establish a new class of facilities called "Qualified Facilities." These facilities must have an aggregate oil storage capacity of 10,000 gallons or less and must not have had a reportable oil discharge in the last 10 years or since becoming subject to the SPCC program, whichever is shorter. Qualified Facilities have the benefit of being able to self-certify their SPCC plans, thereby avoiding the cost of having to engage a Professional Engineer (PE) to certify their SPCC plan for them. Qualified Facilities that opt to self-certify would not be allowed to make use of the environmental equivalence or impracticability exemptions currently allowed for facilities that obtain a PE certification. Qualified Facilities would be allowed to propose an alternative security plan from what is required in the regulations. Qualified Facilities would also be allowed to deviate from the bulk storage container integrity testing requirements, which were made more stringent as part of the 2002 SPCC regulation revisions.

**SPCC Plans**

**Equipment Requirements**

**Vehicle Exemptions**

**New Deadline**

**Effective Upon Promulgation**

**Qualified Oil-Filled Operational Equipment**

A second key aspect of the proposed rules is to establish a new category defined as “Qualified Oil-Filled Operational Equipment.” The application of SPCC requirements to oil-filled operational equipment has long been an area of confusion and misunderstanding. In the 2002 rules EPA clarified that oil-filled operating equipment is subject to the general SPCC secondary containment requirements. The contingency plan must include a written commitment of resources adequate to address a release if it occurs and a written inspection/monitoring plan. Although exempt from the secondary containment requirements, the equipment capacity must still be considered in determining the aggregate facility oil storage capacity. Facilities that have had a reportable discharge from *any* oil-filled operational equipment in the past ten years or since becoming subject to the SPCC program, whichever is shorter, would not be eligible to consider any equipment Qualified Oil-Filled Operational Equipment.

EPA also proposes to modify the rules to clarify that motor vehicle fuel tanks are not subject to SPCC requirements. EPA has previously claimed that fuel storage tanks used solely to power a motor vehicle are subject to SPCC jurisdiction. Some had criticized EPA’s prior position as unduly stretching the intent of the SPCC requirements. Special exemptions are proposed for airport mobile refuelers.

**Proposed Schedule**

EPA has also proposed another extension to the deadlines for revising a regulated facility’s SPCC plan to make it consistent with the 2002 rule revisions and, eventually, with the rule revisions that come out of the December 2005 proposal. EPA has also proposed an extended deadline for agricultural operations with 10,000 gallons or less of aggregate on-site oil storage capacity.

THE PROPOSED NEW DEADLINES ARE:

Facility Type	Facility Start Up:	Deadline	Action Required
Non-Agricultural & Agricultural >10,000 gallons	Before August 16, 2002	October 31, 2007	Prepare and implement an SPCC Plan consistent with 2002 rules
Agricultural ≤10,000 gallons		Indefinitely Delayed	
Non-Agricultural & Agricultural >10,000 gallons	Between August 16, 2002 and October 31, 2007	October 31, 2007	Prepare and implement an SPCC Plan consistent with 2002 rules
Non-Agricultural & Agricultural >10,000 gallons	After October 31, 2007	Prior to Startup	Prepare and implement an SPCC Plan consistent with 2002 rules

**Conclusion**

As the SPCC rules apply directly to sources in Oregon, the program changes will be effective upon promulgation of the final rules.

Comments on the proposed rule revisions and agricultural deadline extensions are due to EPA by February 10, 2006. Comments on the proposed deadline extensions other than for agricultural facilities are due to EPA by January 11, 2006.

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REFERENCE: The proposed rules can be found starting at 70 Fed. Reg. 73517 (December 12, 2005).

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