



EPA's New Spill Prevention Control and Countermeasure (SPCC) Rule

On July 17th, 2002, EPA issued a final rule amending the Oil Pollution Prevention regulation promulgated under the authority of the Federal Water Pollution Control Act (Clean Water Act). **The new SPCC rule became effective August 16, 2002.** This rule addresses requirements for Spill Prevention Control and Countermeasure Plans (SPCC Plans) and some provisions may also affect Facility Response Plans (FRPs). The SPCC rule can be found in Title 40 of the Code of Federal Regulations (CFR), Part 112 (Oil Pollution Prevention)

Background

The goal of the oil pollution prevention regulation in 40 CFR Part 112 is to **prevent oil discharges from reaching navigable waters of the United States or adjoining shorelines.** The rule was also written to **ensure effective responses to oil discharges.** The rule further specifies that **proactive, and not passive, measures be used to respond to oil discharges.** The oil pollution regulation contains two major types of requirements: **prevention requirements (SPCC rule)** and **facility response plan (FRP) requirements.** The Rule **requires facilities that are subject to the regulation to have a SPCC Plan that contains measures to prevent and control oil spills, including those resulting from human operational error or equipment failures.**

The reasons for the rule changes are several-fold. Some changes result from the need to clarify the language and organization of the rule and are designed to comply with Presidential directives requiring that all new rules or rule amendments be drafted in plain language. The EPA has indicated that the rule changes should reduce the regulatory burden of the Oil Pollution Prevention regulations by approximately 40 percent. **The changes are intended to eliminate duplicate regulation; exempt certain small facilities, exempt portions of most wastewater treatment facilities, and require consideration of industry standards in prevention plans.** The amended rule also allows an owner or operator to substitute a required measure for another providing equivalent environmental protection, with the exception of secondary containment requirements.

The SPCC rule applies to owners or operators of facilities that drill, produce, gather, store, use, process, refine, transfer, distribute, or consume oil and oil products. **The changes to the rule clarify applicability to owners or operators that use oil.**



Highlights of the Amended Rule

- **Exempts completely buried storage tanks that are subject to all of the technical requirements of the UST regulations** (40 CFR Parts 280 or 281);
- Exempts portions of certain facilities or any facility used exclusively for wastewater treatment or associated with oil production. This exemption does not apply to production, recycling, or recovery of oil;
- Establishes a de minimis container size of 55 gallons;
- Establishes **an aboveground storage capacity threshold of greater than 1,320 gallons and removes the 660 gallon threshold**;
- **Revises the trigger for submitting information on spills at SPCC regulated facilities to EPA**. Facilities are now required to submit SPCC plans after having 2 discharges (over 42 gallons each) in any 12-month period;
- Allows deviations from most rule provisions (with the exception of secondary containment requirements) when equivalent environmental protection is provided;
- Provides for a flexible plan format, but requires a cross-reference showing that all regulatory requirements are met; and
- Clarifies rule applicability to the storage and operational use of oil.
- The revisions to the SPCC rule may affect whether a facility needs to prepare and maintain a Facility Response Plan (FRP) or how worst-case discharge planning levels are calculated. In some cases, certain facilities may not meet the storage capacity thresholds for the substantial harm criteria. In other cases, a facility must have an FRP, but the amended rule may allow for revisions of the calculations for worst-case discharge planning levels.

Each SPCC plan, although unique to an individual facility, must include certain elements. A copy of the entire SPCC Plan must be maintained at the facility if the facility is normally attended for at least four hours per day. Otherwise, it must be kept at the nearest field office. The SPCC Plan must be available to EPA for on-site review and inspection during normal working hours.

The Oil Pollution Prevention Regulation requires that each SPCC Plan be carefully thought out, prepared in accordance with good engineering practices, and be approved by a person with the authority to commit the resources necessary to implement the SPCC Plan. The SPCC Plan should clearly address the following three areas:

- Operating procedures that prevent oil spills;
- Control measures installed to prevent a spill from reaching navigable waters; and
- Countermeasures to contain, clean up, and mitigate the effects of an oil spill that reaches navigable waters.



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Development of a unique SPCC Plan requires detailed knowledge of the facility and the potential effects of any oil spill. Each facility's SPCC plan must include certain standard elements to ensure compliance with the regulations.

A SPCC Plan should include the following information and should follow the sequence outlined below:

- A facility which has experienced one or more spill events within twelve months prior to the effective date of this part should include a written description of each such spill, corrective action taken, and plans for preventing recurrence (112,7(a)).
- A prediction of the direction, rate of flow, and total quantity of oil that could be discharged where experience indicates a potential for equipment failure.
- A description of containment and/or diversionary structures or equipment to prevent discharged oil from reaching navigable waters. (For on-shore facilities, one of the following should be used as a minimum: dikes, berms, or retaining walls; curbing; culverting, gutters, or other drainage systems; weirs, booms, or other barriers; spill diversion ponds; retention ponds; sorbent materials.)
- Where appropriate, a demonstration that containment and/or diversionary structures or equipment are not practical and a strong oil spill contingency plan and a written commitment of manpower, equipment, and materials to quickly control and remove spilled oil.
- A complete discussion of the spill prevention and control measures applicable to the facility and/or its operations. A facility's SPCC Plan must discuss how the facility conforms with the oil spill prevention and containment procedures established for that type of facility or operation. The SPCC regulations provide spill prevention and control measures specific to the different types of onshore oil facilities or operations.
- Each SPCC Plan should include a demonstration of management's approval and should be certified by a registered professional engineer.

Overall, the effect of the amended SPCC rule is expected to be positive, in part due to the reduced number of facilities that are regulated and the reduction of the overall regulatory burden.