

## **Legal Lookout: EPA Issues Final SPCC Plan Amendments**

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**by Lynn L. Bergeson**

Last December, EPA issued final amendments to the Spill Prevention, Control and Countermeasure (SPCC) plan requirements.

### **Background**

Section 311(j)(1)(C) of the Clean Water Act (CWA) authorizes establishing requirements to prevent and contain discharges of oil from vessels and facilities. SPCC plans are the cornerstone of EPA's implementation of this section to prevent oil spills that could reach navigable waters.

In 2002, EPA published a final rule amending the Oil Pollution Prevention regulation, which implemented Section 311(j), and included requirements for SPCC and facility response plans.

The final rule included new provisions outlining requirements for various classes of oil, revised the applicability of the regulation, and amended requirements for completing the plans, among other modifications. EPA plans to add further adjustments in 2007.

### **Final rule**

To reduce regulatory burdens and address certain other concerns involving oil-filled operational equipment, motive power containers, and provisions specific to farms, animal fats and vegetable oils, EPA amended the SPCC plan requirements. Key changes include:

I. Alternative compliance option for qualified facilities – EPA agreed with commentators and adopted an alternative compliance option for owners/operators of a qualified facility to self-certify that its SPCC plan is prepared in accordance with Part 112 in lieu of review and certification by a professional engineer (P.E.).

II. Revised definition for oil-filled operational equipment – Facilities with eligible oil-filled operational equipment are not required to have secondary containment. The final rule allows a facility operator to prepare: a) an oil spill contingency plan, b) an inspection and monitoring program, and c) a written commitment of manpower, equipment and materials in place of installing secondary containment, or having a P.E. certify the impracticability of installing secondary containment.

To qualify, a facility must not have had a reportable discharge from oil-filled equipment exceeding 1,000 gallons, or no two discharges from any oil-filled operation equipment each exceeding 42 gallons within any 12-month period in the three years prior to the plan certification date, or since becoming subject to the qualification criteria if the facility has been in operation less than three years.

III. Exemption from SPCC rule for certain motive power containers – Certain motive power containers are exempted from the SPCC regulation. These are onboard bulk-storage containers used to power the movement of a motor vehicle, or ancillary onboard oil-filled operational equipment. Also, the capacity of the storage containers is not counted toward facility oil storage capacity. The exemption does not apply to transfers of fuel or other oil

into motive power containers occurring within an SPCC-covered facility, nor does it apply to an onboard bulk storage container that supplies oil for the movement of a vehicle or operation of onboard equipment.

In a separate notice that day, EPA requested comment on extending the date by which facilities must prepare or amend SPCC plans for implementation. Under the proposal, a facility in operation on or before Aug. 16, 2002, would have to make necessary amendments on or before July 1, 2009. This additional time would allow it to make further revisions in 2007 to the SPCC rule.

EPA has made available several documents, including the SPCC Guidance for Regional Inspectors, the SPCC Compliance Assistance Guides, and SPCC reference materials at [www.epa.gov/oilspill/spcc.htm](http://www.epa.gov/oilspill/spcc.htm).

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