

Spill Prevention, Control and Countermeasure (SPCC)

When and why EPA requires you to have a plan

Summary

The latest amendment to the SPCC rules, dated December 5, 2008, has been delayed by the EPA several times since the beginning of the year. KPA clients regularly ask what this means for current regulatory requirements. The EPA is clear about that: *“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”* (<http://www.epa.gov/oem/content/spcc/index.htm>).

In other words: you need an SPCC Plan today to be compliant.

This article provides additional background to the SPCC rules and includes references to upcoming changes.

SPCC Background

Originally published in 1973 under the authority of §311 of the Clean Water Act, the Oil Pollution Prevention regulation sets forth requirements *for prevention of, preparedness for, and response to oil discharges at specific non-transportation-related facilities. To prevent oil from reaching navigable waters and adjoining shorelines, and to contain discharges of oil*, the regulation requires these facilities to develop and implement Spill Prevention, Control, and Countermeasure (SPCC) Plans and establishes procedures, methods, and equipment requirements (Subparts A, B, and C). In 1990, the Oil Pollution Act amended the Clean Water Act to require some oil storage facilities to prepare Facility Response Plans. On July 1, 1994, EPA finalized the revisions that direct facility owners or operators to prepare and submit plans for responding to a worst-case discharge of oil (Subpart D).

Following the Floreffe, Pennsylvania oil spill in 1988, EPA formed the SPCC Task Force to examine federal regulations governing oil spills from aboveground storage tanks. The SPCC Task Force recommended that EPA clarify certain provisions in the Oil Pollution Prevention regulation, establish additional technical requirements for regulated facilities, and require the preparation of facility-specific response plans. In response to the Task Force recommendation, EPA proposed revisions to the Oil Pollution Prevention regulation in the 1990s and finalized the amendments in 2002.

The 2002 Revisions

The revisions in 2002 made the rules applicable to facilities that used oil as well as stored oil, expanded the geographical reach of the rules to reflect changes in the Clean Water Act, revised the definition of "oil" to include vegetable oils and animal fats, and clarified EPA's position that the General SPCC Plan Requirements were mandatory and not merely suggested guidance. In addition, EPA clarified the rules to apply to facilities with an oil storage capacity of over 1320 gallons, expanded the role played by Professional Engineers in developing satisfactory SPCC plans and revised the General Requirements. EPA conceded that several industry sectors and several hundred thousand facilities were now subject to the SPCC rules, but the agency emphasized that it had made the rules more flexible and established the concept of "equivalent environmental protection" if strict compliance with the rules was impractical.

The Aftermath

The expansion of the scope and reach of the rules in 2002 generated considerable controversy in many business sectors including the automotive industry. Since then the rules have been amended multiple times and deadlines have been pushed back. The most significant of these changes occurred in December 2006 when the doors were opened for self certification by the business owner. The new change was short lived for most KPA clients since it was soon discovered that transferring of oil to and from the facility would require “sized” secondary containment, such as a berm or a wall, which would be very impractical to use and install. The most recent amendment came in December of 2008. The EPA issued the “Final Rules” on December 5, 2008. These Final Rules can be found in this 60 pages document:

www.epa.gov/oem/docs/oil/spcc/SPCC_Rule_Amendments_Dec08.pdf

While the EPA lists several exemptions, the general guideline is that these rules apply to all Auto Dealers, Truck Dealers, Agricultural Equipment Dealers, Service Centers, and other facilities with a storage capacity of over 1320 gallons of petroleum products. This limit of 1320 gallons includes all 55 gallon drums at your facility and all the potential storage capacity of your tanks regardless of how full they are.

Several amendments have been made to the latest rules since their original publication. These amendments can be found at www.epa.gov/oem/content/spcc/index.htm

As a result of extensive public comment, the EPA has also delayed the effective date of the new SPCC rules several times. The latest due dates can be found in the next paragraph of this article. A common misconception is that pending the new rules, facilities don't need an SPCC Plan. The EPA is clear about that: *“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”* www.epa.gov/oem/content/spcc/index.htm

In other words: a facility in operation before August 16, 2002, needs an SPCC Plan today to be compliant.

Due Dates

The EPA has extended the compliance date for facilities with over 1320 gallons of petroleum product storage to prepare or amend a Spill Prevention, Control and Countermeasure (SPCC) Plan.

A facility starting operation...

On or before August 16, 2002

After August 16, 2002, through November 10, 2010

After November 10, 2010

Must...

Continue to maintain its existing SPCC Plan in accordance with the SPCC rule. Amend and implement that Plan no later than November 10, 2010

Prepare and implement an SPCC Plan no later than November 10, 2010

Prepare and implement an SPCC Plan before beginning operations

Please call the association office at (800)762-5616 for more information