

EPA Adds Eighteen Months to SPCC Guidelines Compliance Deadline

The United States Environmental Protection Agency has extended, by eighteen months, the deadline for a facility to amend its Spill Prevention Control and Countermeasure (SPCC) Plan and implement the amended SPCC Plan in order to comply with EPA's July 2002 amendments to the SPCC Guidelines. The SPCC Guidelines establish spill prevention procedures, methods, and equipment requirements for certain non-transportation-related oil storage facilities that, because of their location, could discharge oil in harmful quantities into surface waters. Under the extended deadline, an existing facility subject to the SPCC Guidelines must amend its current SPCC Plan to ensure compliance with the amended Guidelines by August 17, 2004, and must implement the amended SPCC Plan by February 18, 2005.

EPA originally promulgated SPCC Guidelines in 1974. In a July 2002 Federal Register notice, EPA issued an amendment to the Guidelines that, among other things, includes the following changes:

- Clarifies that *users* of oil (not just oil producers or disposal facilities) are subject to the Guidelines, and expanded the scope of the guidelines to conform with the expanded jurisdiction in the amended Clean Water Act;
- Exempts certain completely buried storage tanks, containers with a storage capacity of less than 55 gallons, and wastewater treatment units from the SPCC provisions;
- Gives the EPA Regional Administrator the authority, on a case by case basis, to require a facility that is otherwise exempt from the SPCC requirements to prepare an entire SPCC plan, or any applicable part of the plan “when it becomes necessary to achieve the purposes of the CWA.”

- Clarifies that a “facility” subject to the SPCC Guidelines may be as small as a piece of equipment, such as a single tank, or “as large as a military base”;
- Requires an attestation from a professional engineer stating that the SPCC plan conforms with applicable industry standards and is prepared in accordance with the SPCC Guidelines (previously, the PE was required to attest only that the plan has been prepared in accordance with “good engineering practice”);
- Changes the threshold for reporting under these SPCC Guidelines two discrete discharges of oil to more than 42 gallons in each of those discharges (the 1,000 gallon threshold for a single discharge remains unchanged);
- Authorizes the EPA Regional Administrator to require an SPCC Plan amendment after on-site review of the Plan;
- Changes the period of review for SPCC Plans from 3 to 5 years;
- Adds new requirements for periodic integrity testing of containers, and periodic integrity and leak testing of valves and piping;
- Mandates specific annual training for oil-handling employees;
- Requires testing of aboveground containers for integrity on a regular schedule and whenever material repairs are done;
- Requires that all buried piping that is installed or replaced on or after August 16, 2002 must have corrosion protection, such as protective wrapping and coating or cathodic protection;
and
- Clarifies that the secondary containment must include sufficient freeboard to contain precipitation.

EPA stated that it was “finalizing this extension to, among other things, provide sufficient time for the regulated community to undertake the actions necessary to update (or prepare) their plans in accordance with the amendments” and to “avoid a flood of individual extension requests it has become apparent [EPA] will otherwise receive.”

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