

November 1, 2010

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EPA Grants One Year Extension On Compliance Date For Amended SPCC Rule

The United States Environmental Protection Agency ("EPA") has extended until November 10, 2011 the compliance date by which most facilities must prepare or amend their Spill Prevention, Control, and Countermeasure ("SPCC") plans in order to allow an additional one year for those facilities to understand recent revisions to the SPCC rule. The prior compliance date was November 10, 2010.

The purpose of the SPCC rule is to establish requirements for facilities to prevent a discharge of oil into navigable waters or adjoining shorelines. A facility is covered by the SPCC rule if it has an aggregate aboveground oil (including petroleum, fuel oil, animal fats, vegetable oils, synthetic oils, and mineral oils) storage capacity greater than 1,320 gallons or an underground storage capacity greater than 42,000 gallons, and there is a reasonable expectation of an oil discharge to navigable waters or adjoining shorelines.

In a July 17, 2002 Federal Register notice, EPA amended the SPCC rule, effective August 16, 2002, and established a compliance date for preparing, amending, and implementing SPCC plans to conform to that amendment. Between 2003 and 2009, EPA extended that compliance date six times. In addition, EPA made further amendments to the SPCC rule in 2006, 2008 and 2009. EPA's most recent compliance date extension, published in an October 14, 2010 Federal Register notice, provides one additional year for the regulated community to make the necessary modifications to their facilities and their SPCC plans to comply with the amended SPCC rule. Under the extended deadline, most affected facilities that began operations *after* August 16, 2002 are not required to prepare SPCC plans until the new compliance date of November 10, 2011. Most affected facilities that were in operation *on or before* August 16, 2002, however, must maintain their existing SPCC plans and update them to comply with the amended SPCC rule by the new compliance date.

Although the extended compliance date applies to most affected facilities, EPA did not extend the compliance date for drilling, production or workover facilities that are offshore or that have an offshore component, or for onshore facilities required to have Facility Response Plans (FRPs). FRPs are required for facilities that could reasonably be expected to cause "substantial harm" to the environment by discharging oil to navigable waters, as defined in the FRP rule. The SPCC compliance date for these facilities remains as November 10, 2010.

The following tables, available on EPA's webpage, summarize the applicability of the extended compliance date:

What are the compliance dates for SPCC facilities receiving a compliance date extension?

A facility, including a mobile or portable facility, starting operation...	Must...
On or before August 16, 2002	Maintain its existing SPCC Plan Amend and implement the amended SPCC Plan no later than November 10, 2011
After August 16, 2002 through November 10, 2011	Prepare and implement an SPCC Plan no later than November 10, 2011
After November 10, 2011 (excluding production facilities)	Prepare and implement an SPCC Plan before beginning operations
After November 10, 2011 (production facilities)	Prepare and implement an SPCC Plan within six months after beginning operations.

Which SPCC facilities remain subject to the November 10, 2010 compliance date?

<i>A drilling, production or workover facility, including a mobile or portable facility, located offshore or with an offshore component or an onshore facility that is required to have and submit FRPs starting operation...</i>	<i>Must...</i>
On or before August 16, 2002	Maintain its existing SPCC Plan Amend and implement the amended SPCC Plan no later than November 10, 2010
After August 16, 2002 through November 10, 2010	Prepare and implement an SPCC Plan no later than November 10, 2010
After November 10, 2010 (excluding production facilities)	Prepare and implement an SPCC Plan <i>before</i> beginning operations
After November 10, 2010 (production facilities)	Prepare and implement an SPCC Plan <i>within six months after</i> beginning operations.

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