

## Oil spill prevention, control and countermeasure

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By **David Spring** and **Chris Paul**

The US Environmental Protection Agency (“EPA”) requires all facilities that use, manage and store oil (1,320 gallons or more) to develop and implement Spill Prevention, Control and Countermeasure (“SPCC”) Plans. The latest amendments to the Rule and the compliance dates were issued on November 13, 2009, which reversed some of the amendments made in December, 2008. In 2009, EPA extended the compliance deadline for the new amendments to November 10, 2010 to allow additional time for facilities to prepare, amend, and implement their SPCC Plans. The amended Rule became effective on January 14, 2010.



EPA either retained or provided minor technical corrections for the majority of the December 2008 provisions. These amendments have affected all aspects of the original SPCC regulation, including what types of facilities are required to have plans, the plan contents, and the compliance requirements. Any plan prepared before November 13, 2009, should be evaluated in its entirety to ensure that it complies with the current requirements.

Some of the recent SPCC Rule Amendments apply to specific industries, such as agriculture and oil production facilities, and to certain types of qualified facilities.

### **Agriculture**

The latest Rule exempts pesticide application equipment and related mix containers that may currently be subject to the SPCC Rule when crop oil or adjuvant oil are added to formulations. EPA has also clarified that a nurse tank is considered a mobile refueler, and, like other types of mobile refuelers, is exempt from the sized secondary containment requirements. Additionally, farms are likely to benefit from several of the other amendments finalized in this Rule, benefits counterbalanced by EPA’s removal of provisions that excluded farms and oil production facilities from the loading/unloading rack requirements. EPA also has amended the integrity testing requirements for containers storing certain types of animal fats and vegetable oils, to provide the flexibility to determine the scope of integrity testing that is appropriate, based on compliance with certain U.S. Food and Drug Administration regulations and other criteria.

### **Oil Production Facilities**

The revised Rule has finalized several amendments to tailor the requirements for oil production facilities. The Rule had the following effects:

- Extended the timeframe by which a new oil production facility must prepare and implement an SPCC Plan
- Modified the definition of “production facility”
- Provided an alternative option for flow-through process vessels to comply with the general secondary containment requirement and additional oil spill prevention measures in lieu of sized secondary containment requirements.
- Exempted certain intra-facility gathering lines subject to the US Department of Transportation’s pipeline regulations

- Provided an optional exemption from all secondary containment requirements for flowlines and intrafacility gathering lines, and established more specific requirements for a flowline / intra-facility gathering line maintenance program and contingency planning
- Defined “produced water container” and provided an alternative compliance measure for these containers which require general secondary containment, a process or procedure certified by a PE designed to remove free-phase oil on the surface of the produced water in these containers, and compliance with additional oil spill prevention measures in lieu of sized secondary containment requirements.
- Provided a new definition of “loading/unloading rack” to clarify the oil transfer equipment subject to the provisions for facility tank car and tank truck loading/unloading racks, as well as amended provisions for this equipment
- Clarified the definition of “permanently closed”

### Qualified Facilities

EPA streamlined and tailored the SPCC requirements for a subset of qualified facilities. This Final Rule designates a subset of qualified facilities (“Tier I qualified facilities”) as those that meet the current qualified facilities eligibility criteria and that have no oil storage containers with an individual aboveground storage capacity greater than 5,000 US gallons. A Tier I qualified facility has the option to complete a self-certified SPCC Plan template instead of a full SPCC Plan. By completing the SPCC Plan template, an owner or operator of a Tier I qualified facility will certify that the facility complies with a set of streamlined SPCC Rule requirements. All other qualified facilities are designated “Tier II qualified facilities,” and must prepare a full SPCC Plan.

EPA compliance dates for the SPCC Rule based on the November 13, 2009 Final Rule Amendments are as follows:

**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.\*

*\*Owners or operators of new oil production facilities must prepare and implement an SPCC Plan six months after the start of operations.*

**Oklahoma City** TENTH FLOOR • TWO LEADERSHIP SQUARE 211 NORTH ROBINSON • OKLAHOMA CITY, OK 73102-7103 (405) 235-9621 office • (405) 235-0439 fax  
**Tulsa** 500 ONEOK PLAZA 100 WEST 5TH STREET • TULSA, OK 74103 (918) 587-0000 office • (918) 599-9317 fax