

US EPA ARCHIVE DOCUMENT

# Spill Prevention, Control, and Countermeasure Rule: The 2008 Amendments and their Current Status



**Session Chair**  
**Mark W. Howard**

Regulations and Policy Development Division, Office of Emergency  
Management, U.S. EPA

**Freshwater Spills Symposium 2009**  
*April 28, 2009 - St. Louis, MO*

# Agenda

- I. Introduction / Background
- II. Status of the 2008 SPCC Rule Amendments
- III. Overview of the 2008 Amendments

# I. Introduction to the SPCC Rule



# What is the SPCC Rule?

- Spill Prevention, Control, and Countermeasure rule
- Oil Pollution Prevention regulation (40 CFR part 112)
  - Specifies requirements for prevention of, preparedness for, and response to oil discharges
  - Includes requirements for Facility Response Plans (FRPs)
- Requires facilities to develop and implement a **site-specific SPCC Plan** to address:
  - Containment and procedures to *prevent* oil discharge (tank testing);
  - *Control* measures to keep an oil discharge from entering navigable waters (containment); and
  - *Countermeasures* to contain, clean up, and mitigate any oil discharge that affects navigable waters (spill response measures).

# SPCC Initial Promulgation

- Originally promulgated: **December 11, 1973**
- Effective: January 10, 1974
- Included:
  - General applicability
  - Definitions
  - Requirements for Plan preparation
  - Provisions for Plan amendments
  - Civil penalty provisions (*later removed*)
  - Requirements for the Plans

# 2002 SPCC Rule Revision

- Issued July 17, 2002; effective August 16, 2002
- Based on three proposals (1991, 1993, 1997)
- Performance-based: provides flexibility in meeting many of the oil discharge prevention requirements
  - Environmental Equivalence
  - Impracticability Determinations
- Includes new subparts outlining requirements for various classes of oil (pursuant to EORRA)
- Amends the requirements for SPCC Plans

# 2005: Guidance Document

## *SPCC Guidance for Regional Inspectors*

- Publicly released December 2, 2005
- Intended to establish a consistent understanding among regional EPA inspectors on how certain provisions of the rule may be applied
- Meant to help clarify the role of the inspector in reviewing implementation of the performance-based provisions
- Does not address all aspects of the SPCC rule
- Does not address the 2006 or 2008 rule amendments
- Available at  
<http://www.epa.gov/emergencies/guidance.htm#spcc>



# 2006 Rule Amendments

- Streamlined the regulatory requirements
  - Owners/operators of facilities that have an oil storage capacity of 10,000 gallons or less of oil and meet other qualifying criteria may **self-certify** their SPCC Plan
  - Alternative to general secondary containment requirement, without requiring a determination of impracticability, for facilities with qualified oil-filled operational equipment and meet other qualifying criteria

(continued...)

## 2006 Rule Amendments (continued)

- Exemption for motive power containers
- Exemption for mobile refuelers from sized secondary containment requirements for bulk storage containers
- Remove inapplicable SPCC requirements for animal fats and vegetable oils
- Provide an indefinite extension for farms

# Applicability

- Applies to owners or operators of non-transportation-related facilities that:
  - Drill, produce, store, process, refine, transfer, distribute, use, or consume oil or oil products, and
  - Could reasonably be expected to discharge oil to U.S. navigable waters or adjoining shorelines.
- Facilities are subject to the rule if they meet capacity thresholds:
  - Aboveground oil storage capacity > 1,320 gallons, or
  - Completely buried oil storage capacity > 42,000 gallons

**Is the facility or part of the facility (e.g. complex) considered non-transportation-related?**

Yes

**Is the facility engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, using, or consuming oil?**

Yes

**Could the facility reasonably be expected to discharge oil in quantities that may be harmful into navigable waters or adjoining shorelines?**

Yes

**Is the total aggregate capacity of aboveground oil storage containers greater than 1,320 gallons of oil?**

or

**Is the total aggregate capacity of completely buried storage tanks greater than 42,000 gallons of oil?**

Yes

**The facility  
IS subject  
to SPCC.**

No

No

No

No

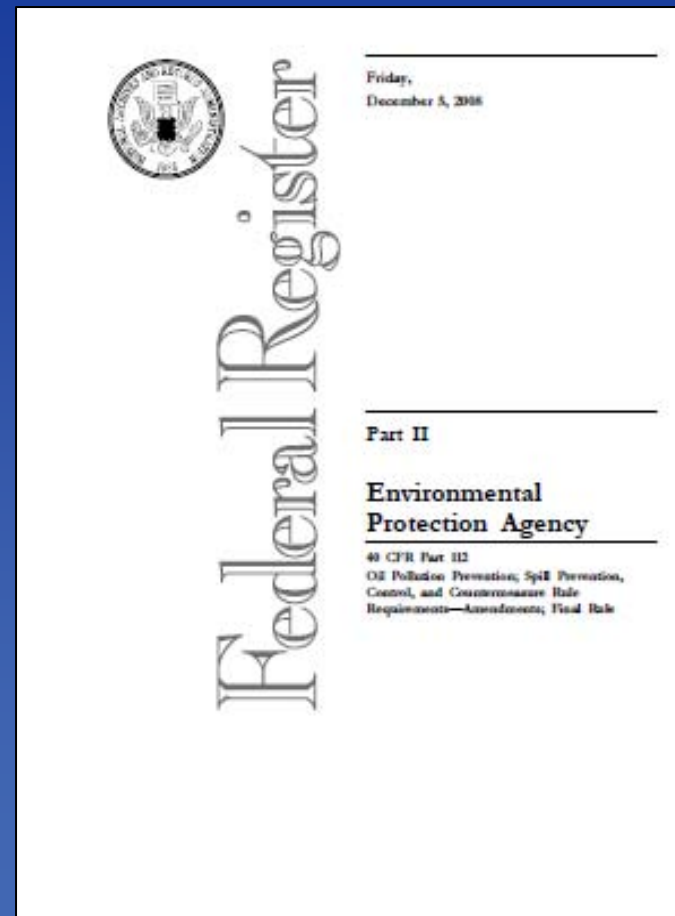
**The facility  
IS NOT  
subject to  
SPCC.**

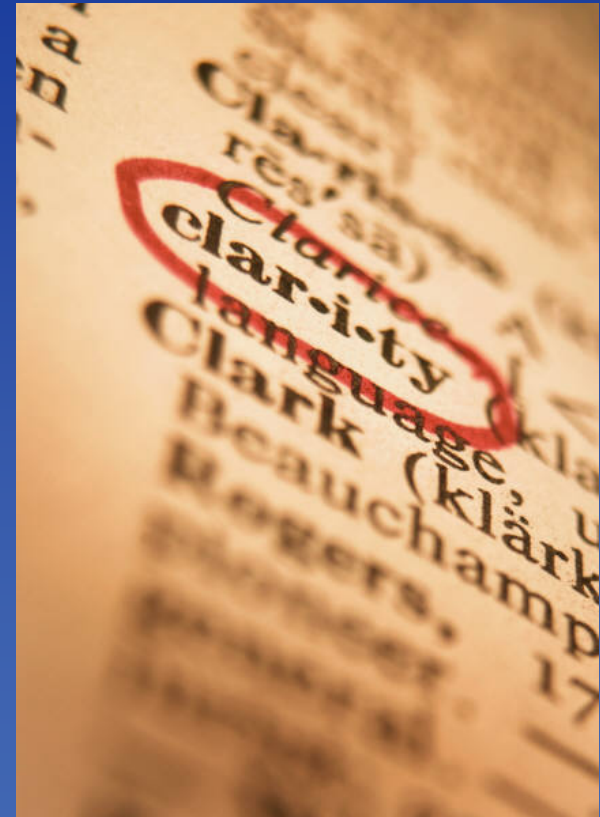
## II. Status of 2008 SPCC Rule Amendments



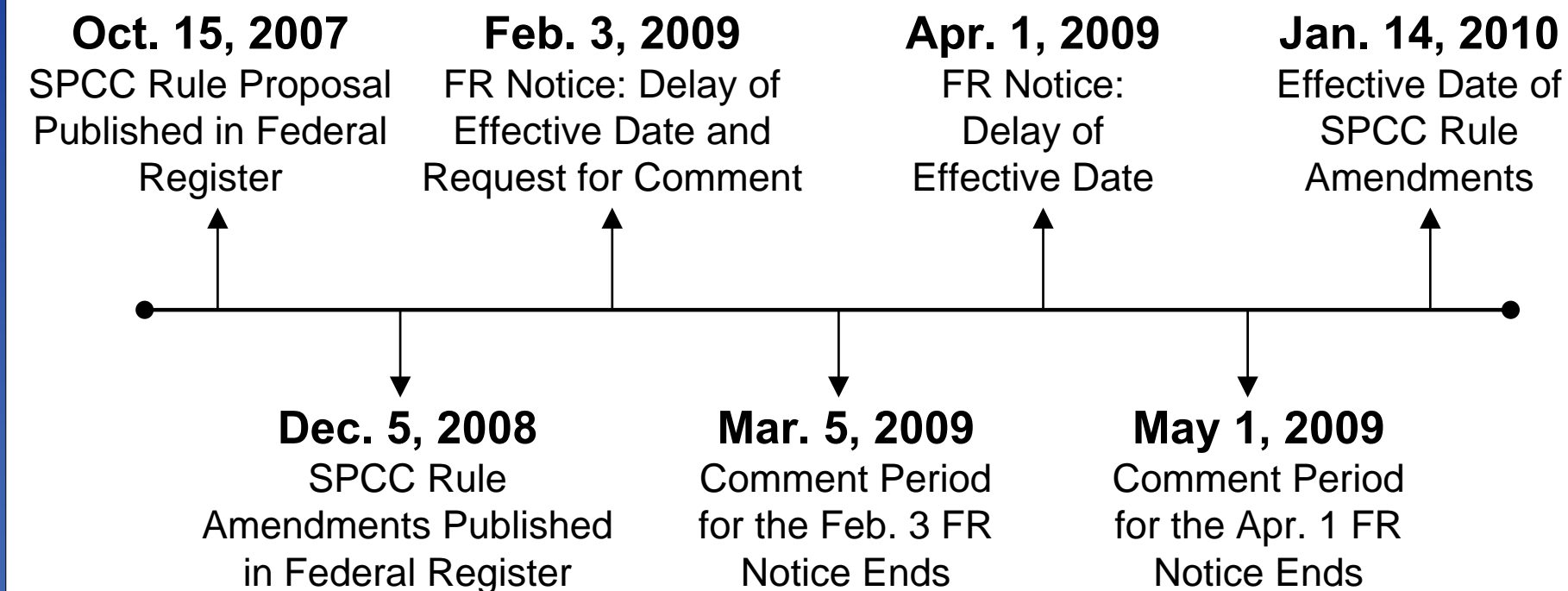
# 2008 SPCC Rule Amendments

- Published in the *FR* on December 5, 2008
- *Originally* scheduled to go in effect February 3, 2009
- Address areas highlighted in the EPA Regulatory Agenda and the 2005 OMB report “Regulatory Reform of the U.S. Manufacturing Sector”





# Timeline of Events





# Memorandum for the Heads of Executive Depts. and Agencies

- Issued January 20, 2009 by President Obama's Chief of Staff, Rahm Emanuel
- Requests the following steps:
  - No proposed or final regulation sent to Office of the Federal Register, unless reviewed and approved by Obama Administration
  - Withdraw from OFR of all proposed or final regulations not yet published in FR, pending review and approval
  - Consider extending for 60 days the effective date of regulations that have been published in FR but not yet taken effect

# OMB Memo on Implementation of White House Memo

- Provides guidance on implementing paragraph 3, “Consider extending for 60 days...”
- Provides 8 considerations to go over when deciding whether to extend the effective date of a regulation. These deal with:
  - the rulemaking process
  - substance of the rule
  - objections to the rule
  - access to facts and data by interested parties
  - support of the final rule
- If the rule satisfies these standards, you need do nothing further.

## Feb. 3, 2009: Delay of Effective Date and Request for Comment

- EPA delayed the effective date of the 2008 SPCC rule amendments by 60 days.
- *FR* notice published February 3, 2009.
- Public comment was requested on the extension of the effective date and its duration, and on the amendments.

# Public Comment Period Extension

- Requested public comment on all aspects of the rule.
- Specifically requested public comment on:
  - the optional approaches for exempting or providing containment for **produced water containers**; and
  - the criteria for the identification of **oil production facilities that are qualified** to prepare self-certified Plans
- EPA received over 55 public comments; currently reviewing whether revisions to the amendments are necessary.

## Apr. 1, 2009: Delay of Effective Date

- *FR* notice published April 1, 2009.
- Delayed the effective date of the SPCC rule amendments until **January 14, 2010**
- Provides time for EPA to review the 2008 amendments.
  - Action to further revise these amendments may occur before the January 2010 effective date.
- Public comment is requested on whether a further extension of the effective date may be warranted.

*Note that this has no impact on the compliance date for SPCC... compliance dates are discussed later.*

# Current Status

- The 2008 Amendments will become effective January 14, 2010.
- Therefore, **amendments are currently not in effect** and **subject to change** before they become effective.
- This action does not impact the current July 1, 2009, compliance date for all facilities, except farms
- EPA will address the compliance date in a separate action
- EPA is not advising the regulated community at this time to take advantage of the relief provided by the December 2008 amendments
  - For example, qualified facility owners/operators should not yet use the Tier I Qualified Facility SPCC Plan Template (Appendix G)

# SPCC Rule Compliance Dates

- “Compliance dates” refer to the deadline to implement the requirements that have been amended since 2002
- The delay of effective date does not impact the compliance date for the SPCC rule provisions.
- **The compliance date is currently July 1, 2009, for all facilities except for farms.**
- EPA intends to take a separate final rule action on the compliance date before July 1.

# Compliance Dates for Facilities Other than Farms

A facility (other than a farm) starting operation...	Must...
On or before August 16, 2002	<ul style="list-style-type: none"><li>• Maintain its existing SPCC Plan</li><li>• Amend and implement the SPCC Plan no later than <b>July 1, 2009</b>.</li></ul>
After August 16, 2002 through July 1, 2009	<ul style="list-style-type: none"><li>• Prepare and implement the SPCC Plan no later than <b>July 1, 2009</b>.</li></ul>
After July 1, 2009	<ul style="list-style-type: none"><li>• Prepare and implement a SPCC Plan <b>before beginning operations</b>.</li></ul>



# Compliance Dates for Farms

A farm starting operation...	Must...
On or before August 16, 2002	<ul style="list-style-type: none"><li>• Maintain its existing SPCC Plan</li><li>• Amend and implement the Plan when EPA promulgates a rule specific for farms and specifies a compliance date for farms.</li></ul>
After August 16, 2002	<ul style="list-style-type: none"><li>• Prepare and implement a Plan when EPA promulgates a rule specific for farms and specifies a compliance date for farms.</li></ul>

## III. Overview of the 2008 Amendments



# Overview of Amendments

## Exemptions

- Exempt hot-mix asphalt and hot-mix asphalt containers
- Exempt pesticide application equipment and related mix containers
- Exempt heating oil containers at single-family residences
- Exempt deferred USTs at nuclear power generation stations



(continues...)

*Amendments not effective until Jan. 14, 2010; subject to public comment and EPA review*

# Overview of Amendments

(continued)

## Amended/Clarified Definitions

- Amend the definition of “facility”
- Define and clarify requirements for a “loading/unloading rack”

## Tier I Qualified Facilities

- Provide further streamlined requirements for a subset of qualified facilities (“Tier I”)
- Allow use of an SPCC Plan template



*Amendments not effective until Jan. 14, 2010; subject to public comment and EPA review*

# Overview of Amendments

(continued)



## Oil Production Facilities

- Definition of Production Facility
- SPCC Plan Preparation and Implementation Timeframe
- Flowlines and Intra-facility Gathering Lines
- Flow-through Process Vessels
- Alternative Qualified Facility Eligibility Criteria for Production Facilities
- Produced Water Containers
- Oil and Natural Gas Pipeline Facilities
- Definition of “Permanently Closed”

*Amendments not effective until Jan. 14, 2010; subject to public comment and EPA review*

# Overview of Amendments

(continued)

## Other Revisions

- Modify secondary containment requirement language at §112.7(c) to provide more clarity
- Revise facility diagram requirement to provide additional flexibility
- Exempt non-transportation-related tank trucks from the sized secondary containment requirements
- Simplify security requirements
- Amend the integrity testing requirements to allow greater flexibility
- Amend integrity testing requirements for animal fat and vegetable oil containers that meet certain criteria

(continues...)

*Amendments not effective until Jan. 14, 2010; subject to public comment and EPA review*



# Overview of Amendments

(continued)

## Preamble Clarifications

- Clarify applicability of mobile refueler requirements to farm nurse tanks
- Clarify applicability of the rule to:
  - Man-made structures
  - Wind turbines used to produce electricity



*Amendments not effective until Jan. 14, 2010; subject to public comment and EPA review*

# For More Information

- 2008 SPCC rule amendment Federal Register notice (73 FR 74236; December 5, 2008)
  - <http://www.gpoaccess.gov/fr/>
  - <http://www.epa.gov/emergencies/content/spcc>
- Complete Oil Pollution Prevention regulation (40 CFR part 112)
  - <http://www.gpoaccess.gov/cfr>
  - <http://www.epa.gov/emergencies/lawsregs.htm>
- EPA Emergency Management Web Area
  - [www.epa.gov/emergencies](http://www.epa.gov/emergencies)
  - [www.epa.gov/oilspill](http://www.epa.gov/oilspill)
- Superfund, TRI, EPCRA, RMP, and Oil Information Center
  - (800) 424-9346 or (703) 412-9810
  - TDD (800) 553-7672 or (703) 412-3323
  - <http://www.epa.gov/superfund/contacts/infocenter/index.htm>



# HQ Contacts - Any Questions?

**Mark W. Howard**

howard.markw@epa.gov

202-564-1964

**Vanessa Principe**

principe.vanessa@epa.gov

202-564-7913

**Patricia Gioffre**

gioffre.patricia@epa.gov

202-564-1972

**U.S. EPA Office of Emergency Management  
Regulations and Policy Development Division**

<http://www.epa.gov/emergencies>

**Superfund, TRI, EPCRA, RMP, and Oil Information Center:**

(800) 424-9346 or TDD (800) 553-7672