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## News

### Water Pollution

#### EPA Finalizes Oil Spill Prevention Rule, Easing Requirements for Certifying Spill Plans

The Environmental Protection Agency released a final rule Dec. 14 that allows some facilities covered by oil spill prevention regulations to use streamlined procedures for certifying spill prevention plans and eases other requirements of the regulations.

The rule modifies the requirement that covered facilities use a professional engineer to certify the spill plans, allowing plants that store or handle up to 10,000 gallons of oil to self-certify the plans. Above that level, plant operators will still have to use a professional engineer.

The rule also exempts automotive and truck fuel tanks from all requirements of the spill prevention rules.

EPA also is exempting mobile refuelers from the secondary containment requirements for bulk storage containers and removing certain requirements for processing animal fats and vegetable oils at onshore and offshore oil production facilities and oil drilling operations.

The rule amends existing regulations for oil spill prevention and countermeasures (SPCC) at 40 C.F.R. §112. Under those regulations, all covered facilities with above-ground storage of 1,320 gallons or completely buried storage capacity in excess of 42,000 gallons were required to develop professionally certified spill-prevention plans (137 DEN A-2, 7/17/02).

EPA has since decided to ease those requirements for some facilities.

The existing rules were written in 2002 and set out dates for developing and implementing the plans. In connection with the final rule, EPA issued a proposed rule extending the compliance date to July 1, 2009, from October 2007. This would be the fifth extension since the 2002 rules were published, according to EPA (30 DEN A-3, 2/14/06).

EPA said the extension would allow the regulated community more time to adjust to the further revisions the agency plans to make prior to July 2009. It also would give facility owners and operators more time to digest the *SPCC Guidance for Regional Inspectors*, which the agency will update to reflect new requirements.

EPA Administrator Stephen Johnson signed the proposal and the final rule Dec. 12. They have not yet been published in the *Federal Register*.

#### 581,000 Facilities Covered

The regulations cover a wide range of facilities, ranging from airports and pipeline operators to schools and petroleum bulk storage stations.

In the final rule, EPA also has indefinitely extended the compliance date for farms to amend, prepare, and implement spill prevention plans until it "promulgates a rule specific for farms and specifies a compliance date for farms."

The final rule is one of two amendments the agency had proposed in December 2005 to streamline the SPCC regulations, which took effect in August 2002.


EPA estimated 618,000 facilities would have been regulated under its December 2005 proposed rule. Under the final rule, the number of regulated facilities decreases to 581,000, owing to duplication of regulated facilities in the past. That figure includes roughly 152,000 farms that are not required to develop and implement SPCC plans until EPA proposes a new rule specifically for farms.

EPA has calculated cost savings of \$125 million in annual savings that would ensue from implementing the revised SPCC rules that are designed to streamline regulatory burdens.

### Farms Excluded Temporarily

EPA said it is extending the compliance dates for all farms that are subject to SPCC requirements and would announce a new compliance date in the *Federal Register*. The agency said it would not suspend SPCC requirements for farms but has not ruled out the possibility that farms could be excluded at a later date. It said it would work with the Department of Agriculture to review data about oil handling and storage practices at farms before reaching a decision.


In the rule, the agency said "it would not be appropriate to issue a blanket suspension of all spill prevention requirements for owners and operators" of farms, and especially those that handle "significant quantities" of oil.

Sen. James Inhofe (R-Okla.), the current chairman of the Environment and Public Works Committee, has been a vocal critic of the SPCC rule. At a December 2005 hearing, Inhofe criticized EPA for taking a "one-size fits all approach" for regulating industries as diverse as small oil and gas producers to large farms (240 DEN A-11, 12/15/05 ).

"I am pleased that EPA will continue its commitment to reform the program for the agricultural community, who in my view should be exempt from the program's requirements," Inhofe said in a Dec. 14 statement. At the same time, he said he regretted that EPA had chosen not to use a threshold higher than 10,000 gallons for taking advantage of the self-certification provision, saying it would impact small oil and gas producers.

"The 10,000 gallon threshold for regulatory relief established in today's rule does nothing to assist small producers who often have storage capacity far above the threshold because these marginal wells at one time produced far more oil," he said.

EPA said it will accept comments on its proposed extension of the compliance deadline for up to 30 days after the proposal is published in the *Federal Register*. The agency asks that comments identified by Docket I.D. No, EPA-HQ-OPA-2006-0949 be submitted online at <http://www.regulations.gov>.

*EPA's final rule amending the spill prevention, control, and countermeasure requirements (SPCC rule) is available at [http://www.epa.gov/oilspill/spcc\\_dec06.htm](http://www.epa.gov/oilspill/spcc_dec06.htm) and the proposed rule extending the compliance deadline is available at <http://www.epa.gov/oilspill/extension.htm>.* 

By Amena H. Saiyid

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