

Keeping Up with the SPCC Rule

The existence of the Environmental Protection Agency's (EPA) Oil Spill Prevention, Control and Countermeasure (SPCC) Rule, which has been in place since the 1970s, is widely known in the oil and gas industry. However, it is important to be aware of changes and clarifications made in 2010 to the rule which are of particular interest to those in the oil and gas industry. In a continued effort to prevent oil discharges from reaching navigable waters and adjoining shorelines, the EPA made several clarifications and changes to the decades-old SPCC Rule. The following article provides an overview of the basics of the SPCC Rule while highlighting important modifications.

Some measures adopted during the changes to the SPCC Rule are minor, others major. The rule specifies actions required for the prevention of, preparedness for and response to oil discharges. Most facilities were forced to prepare and implement an SPCC Plan on or before Nov. 10, 2010 to comply. All plans prepared before November 13, 2009, should have been fully evaluated to ensure compliance. Plans should be reviewed each time conditions change at your facility. Following are some of the most important points of the amended rule.

What is its Scope?

A facility is covered by the SPCC rule if it has a total aboveground oil storage capacity greater than 1,320 gallons of oil or oil products, such as gasoline or diesel fuel. This threshold refers to the cumulative storage capacity of the facility, counting only containers larger than 55 gallons. Almost all oil production facilities, and most gas production facilities, trigger these requirements.

What Qualifies as a Facility?

You, as the operator, can determine the boundaries of your facility under the rule's guidelines. The rule allows that "contiguous or non-contiguous buildings, properties, parcels, leases, structures, installations, pipes or pipelines under the ownership or operation of the same person" be considered separate facilities. With careful consideration, you are able to define boundaries so as to minimize the effect of the rule on operations.

It is important to be aware of recent changes and clarifications made to the SPCC Rule that are of interest to those in the oil and gas industry.

What is Navigable Water?

Previously, almost all oil and gas facilities over the minimum thresholds were thought to have the potential to affect navigable water since the definition of "navigable waters" was interpreted broadly. New criteria, established under EPA guidance, describe a narrower definition of navigable water:

- Traditionally Navigable Waters (TNW) and any adjacent wetlands (even if they do not directly connect to the TNW)
- Relatively Permanent Waters (RPW) and any wetlands that "directly abut" the RPW (not the same as "adjacent")

Provided by Proudfit Insurance

Keeping Up with the SPCC Rule

- Other isolated and/or non-RPW waters or wetlands that have a “significant nexus” to a TNW.

The criteria under the guidance, although still somewhat ambiguous, significantly reduced the number of locations that would impact navigable waters in the event of an oil spill. Thus, it also reduced the number of oil and gas facilities in the United States that would require SPCC plans. Use competent personnel to analyze each of your locations and document its potential to impact navigable waters and, thus, its need for an SPCC plan.

Exemptions to the Rule

Permanently closed containers, motive power containers and completely buried storage tanks (already subject to storage tank regulations) were exempted in the modified rule. Intra-facility gathering lines that are subject to the U.S. Department of Transportation’s (DOT) pipeline regulations were also exempted.

Loading “Racks” vs. “Areas”

The original SPCC regulation covered “loading areas” for oil transfer, generating confusion regarding transfer operations at typical oilfield tank batteries. The term “loading area” has been replaced with “loading rack,” defining it in a way that excludes most oilfield truck transfer facilities. However, if an oil production facility does trigger the loading rack criteria, the rule is clear about enforcement. Operators should evaluate their plans and facilities to ensure that the latest guidance is used.

Water Containers

Exemptions from the tank inspection and secondary containment requirements exist for certain produced water containers if a professional engineer certifies the procedures used to minimize oil accumulation in the container.

Fines

Fines for non-compliance with the SPCC regulations are normally assessed in proportion to the size of the facility.

In 2009, fines administered by EPA for SPCC violations related to the Clean Water Act ranged from \$500 to \$200,000.

Managing Risk

Even with a compliant SPCC Plan, there is substantial risk in the oil and gas industry that must be revisited on a regular basis for accuracy and completeness. Contact the insurance professionals at Proudfit Insurance to be sure you are sufficiently managing your risk.