

## Compliance Concerns Associated with Increasing Oil Storage

- Reduced demand and falling oil prices have led to a surplus in oil inventories resulting in owners/operators considering options for either expanding existing oil storage capacity or establishing new oil storage facilities.
- EPA recommends that facility owners or operators increasing existing storage capacity and/or creating new oil storage facilities should ensure the oil is stored in accordance with applicable federal Spill Prevention, Control and Countermeasure (SPCC) and Facility Response Plan (FRP) requirements.
- This advisory is designed to help owners and operators of new and existing oil storage facilities achieve and maintain compliance by better understanding federal regulatory requirements that may apply to their site. The assistance provided here focuses on Clean Water Act requirements, but other environmental regulatory requirements may also apply.

### Regulation of Oil Storage at Facilities

Oil discharges (spills) have the potential to endanger public health, devastate natural resources, and disrupt our economy. Environmental impacts from oil spills are well documented and include impacts to public drinking water supplies, harm to aquatic plant and animal life and habitat, and damage to our shorelines, fishing grounds, and recreational areas and beaches. Additionally, oil spills can result in human health effects from exposure to the carcinogenic chemicals in certain oils.

The Federal Water Pollution Control Act (FWPCA) of 1972, as amended, commonly known as the Clean Water Act (CWA), is the principal federal statute for protecting navigable waters and adjoining shorelines from pollution (see FWPCA 33 U.S.C. § 1321(b)(3) for full CWA jurisdictional statement); see also <https://www.epa.gov/nwpr>. EPA's oil spill prevention and response program was created under authorities in Section 311 of the CWA and is summarized briefly below.



Expanding oil storage capacity may require actions to comply with applicable environmental rules.

### What requirements apply to oil storage?

#### Spill Prevention, Control, and Countermeasure (SPCC) Plans

Section 311 of the CWA and EPA regulations at 40 C.F.R. Part 112 require certain facilities that could reasonably be expected to discharge oil in quantities that may be harmful into navigable waters of the United States or adjoining shorelines to develop and implement SPCC Plans.

The rule requires that SPCC Plans describe oil handling operations, spill prevention practices, discharge or drainage controls, and the personnel, equipment and resources at the facility that are used to prevent oil spills. The requirements to develop, implement, and revise the SPCC Plan assist owners and operators in preventing, preparing for, and responding to oil spills that threaten navigable waters and adjoining shorelines.

The SPCC rule is generally applicable to a facility if it has an aggregate aboveground oil storage capacity greater than 1,320 U.S. gallons or a completely buried storage capacity greater than 42,000 U.S. gallons, and there is a reasonable expectation of an oil discharge into or upon navigable waters of the U.S. or adjoining shorelines. To determine if the SPCC rule applies to your facility, visit [EPA's SPCC Applicability website](#).

#### How is oil defined?

EPA regulations define oil as “oil of any kind or in any form, including, but not limited to: fats, oils, or greases of animal, fish, or marine mammal origin; vegetable oils, including oils from seeds, nuts, fruits, or kernels; and, other oils and greases, including petroleum, fuel oil, sludge, synthetic oils, mineral oils, oil refuse, or oil mixed with wastes other than dredged spoil.” (see 40 C.F.R. Part 112.2)

## Facility Response Plans (FRPs)

The FRP Rule defines who must prepare and submit an FRP and what must be included in the Plan. See Subpart D of 40 C.F.R. Part 112.20 (and related appendices).

The FRP rule applies to a subset of SPCC facilities, which are generally those that:

- Have 42,000 gallons or more of oil storage capacity and transfer oil over water to or from vessels; or
- Have 1,000,000 gallons or more of oil storage capacity and either lack sufficient secondary containment, are located at a distance such that a discharge from the facility could cause injury to fish and wildlife and sensitive environments or shut down a public water intake, or have experienced a reportable oil spill in an amount greater than or equal to 10,000 gallons within the last 5 years.

## Industrial Stormwater Requirements

Certain facilities that store oil and have [stormwater discharges associated with industrial activity](#) may need National Pollutant Discharge Elimination System (NPDES) permit coverage. The facilities required to have NPDES permit coverage for industrial stormwater discharges are based on the facility's Standard Industrial Classification (SIC) code. EPA has authorized most states to administer the NPDES stormwater permitting program, and specific permit requirements may vary by [permitting authority](#).

Construction of new oil storage facilities that disturbs more than one acre of land may require a [construction stormwater permit](#).

Additional information on SPCC plans and FRPs is available at [EPA's Oil Spills Prevention and Preparedness website](#).

## What are the specific compliance concerns associated with oil storage?

Specific SPCC and FRP compliance concerns under 40 C.F.R. Part 112 include:

- Existing facilities expanding oil storage capacity by initiating activities, including but not limited to, adding oil storage containers, storing oil in railcars onsite, bringing *Permanently Closed* oil containers back into service, or modifying existing oil containers to change the container's oil storage capacity:
  - Facilities must amend their SPCC plans and, if applicable, their FRPs to address the technical changes associated with the expanded storage capacity.
  - Storing oil in railcars onsite may require a facility to amend the facility SPCC plan and, if applicable, also amend their FRP.
  - Recommissioning an oil storage container that is currently "Permanently closed" is typically considered a technical change and requires a technical amendment to the SPCC plan which must be reviewed and certified by a Professional Engineer (PE).
  - Alterations to an oil storage container which change the container's capacity are typically considered a technical change and may require a technical amendment to the SPCC plan that generally must be reviewed and certified by a PE.
  - Typically, the technical changes described above, resulting in a PE certified technical amendment of the plan, must be conducted in accordance with the requirements of 40 C.F.R. Part 112.5 (Amendment of Spill Prevention, Control, and Countermeasure Plan by owners or operators). Certain smaller facilities with a capacity of 10,000 U.S. gallons or less and meeting the other requirements for SPCC plan self-certification may not be required to have PE certifications of technical amendments.
- New facilities establishing oil storage capacity:
  - New oil storage facilities meeting the SPCC rule's applicability provisions must prepare and implement a SPCC plan **before operations begin** in accordance with the requirements of 40 C.F.R. Part 112.3.
  - If applicable, facilities must develop and submit an FRP to EPA.
  - An SPCC plan and, if applicable, an FRP may be required where a new facility is either putting new oil storage containers into service or establishing railcar oil storage areas where oil will be stored in railcars.

## What is EPA doing to protect the environment at oil storage facilities?

EPA uses a variety of tools and strategies to return facilities to compliance and ensure facilities remain in compliance. These include:

- Coordinating with our stakeholders and our Federal, State, Tribal and local partners.
- Offering compliance assistance for all facilities, including those whose practices may have been impacted by the coronavirus pandemic. Contact the Call Center at 800-424-9346 or 703-348-5070 for information on the EPCRA, SPCC and FRP rules.
- Conducting on-site and off-site compliance monitoring.
- Investigating oil discharge reports where there is a potential threat to navigable waters and adjoining shorelines.
- Initiating enforcement actions when appropriate to ensure compliance with applicable rules.

### EPA's Audit Policy

Regulated entities of any size who voluntarily discover, promptly disclose, expeditiously correct and take steps to prevent recurrence of potential violations may be eligible for a reduction or elimination of any civil penalties that otherwise might apply. Most violations can be disclosed and processed via EPA's automated online "eDisclosure" system (see <https://www.epa.gov/compliance/epas-edisclosure>). To learn more about the EPA's violation disclosure policies, including conditions for eligibility, please review EPA's Audit Policy website at <https://www.epa.gov/compliance/epas-audit-policy>. Many states also offer incentives for self-policing; please check with the appropriate state agency for more information.

### Emergency Planning and Community Right-to-Know Act (EPCRA) requirements

The Emergency Planning and Community Right-to-Know Act ([EPCRA](#)) of 1986 was created to help communities plan for chemical emergencies. It also requires industry to report on the storage, use and releases of hazardous substances to federal, state, tribal and local governments.

Facility owners or operators considering either an increase in existing oil storage capacity and/or creation of new oil storage facilities may be subject to the EPCRA requirements. Hazardous chemicals, which include crude oil and refined oil products, typically are subject to EPCRA Sections 311 and 312. Oil storage facility owners and operators may also be subject to other provisions of EPCRA. An overview of these provisions can be found in the [EPCRA fact sheet](#).

Additionally, rail yards that store hazardous chemicals (including crude oil and refined oil products) may also be subject to the EPCRA requirements. Hazardous chemicals present at rail yards are subject to EPCRA Sections 311 and 312, if they are not stored incident to transportation and they are present at the rail yard in amounts equal to or in excess of the minimum thresholds in 40 C.F.R. § 370.10(a). See [FAQs](#) for additional information.

For additional information on the reporting requirements and other information, visit the EPCRA [homepage](#).

### More Information

- [EPA's EPCRA, RMP & Oil Information Center \(also referred to as "the Call Center"\)](#) provides information on the regulatory requirements for EPA's SPCC Rule and FRP Rule as well as other EPA rules. The Call Center can be reached at 800-424-9346 or 703-348-5070.
- [EPA Oil Spill Prevention Contacts](#)
- [Oil Spills Prevention and Preparedness Regulations Website](#)
- [Basics of SPCC Brief Guide for Facilities](#)
- [The National Response Center \(NRC\) at 1-800-424-8802](#)
- [Oil Reporting Fact Sheet](#)
- [USEPA National Response System](#)
- [Permitting under the Clean Air Act](#)
- [Environmental Compliance Information for Energy Extraction \(ECIEE\) Portal](#)

### Disclaimer

This Compliance Advisory addresses select provisions of EPA regulatory requirements with a focus on the Clean Water Act using plain language. Nothing in this Compliance Advisory replaces or revises any EPA regulatory provision or any other Part of the Code of Federal Regulations, the Federal Register, Clean Air Act, or the Clean Water Act.