

Farmers Undertake Environmental Land Stewardship Act (S.496)

Summary – March 7, 2013

The FUELS Act would modify the EPA's Oil Spill Prevention, Control and Countermeasure (SPCC) rule that goes into effect on May 10, 2013 for farms. The bill raises the exemption levels for fuel storage capacity to better reflect the spill risk and financial resources of farms. The bill requires that EPA revise the SPCC regulations to be reflective of a producer's spill risk and financial resources. The exemption level would be adjusted upward from 1,320 gallons of oil storage to an amount that would protect small farms: 10,000 gallons. The proposal would also place a greater degree of responsibility on farmers and ranchers to self-certify compliance if their oil storage facilities exceed the exemption level. If the amount exceeds 42,000 gallons, a professional engineer must certify the SPCC plans for a farm. The bill provides another layer of protection by requiring the producer to be able to demonstrate that he or she has no history of oil spills, or to fully comply with the SPCC regulations.

The legislation is supported by a broad coalition of agriculture and livestock organizations including:

Agricultural Council of Arkansas
American Farm Bureau Federation
American Soybean Association
Arkansas Farm Bureau Federation
Montana Grain Growers Association
National Association of Wheat Growers
National Cattlemen's Beef Association
National Chicken Council

National Corn Growers Association
National Cotton Council
National Council of Farmer Cooperatives
National Milk Producers Federation
National Turkey Federation
Pennsylvania Farm Bureau Federation
USA Rice Federation

The EPA mandated Oil Spill Prevention, Control and Countermeasures program, or SPCC, requires that oil storage facilities with a capacity of over 1,320 gallons must make infrastructure improvements to reduce the possibility of oil spills. The regulations require farmers to construct a containment facility, like a dike or a basin, which must retain 110 percent of the fuel in the container. These mandated infrastructure improvements, along with the necessary inspection and certification by a specially licensed Professional Engineer, will cost many farmers tens of thousands of dollars.

The SPCC program dates back to 1973, shortly after the Clean Water Act was signed into law. The Obama administration updated the rule in 2009 to expand regulation under the SPCC program--applying it to nearly all farms, and lifting a 2006 rule that suspended compliance requirements for small farms with oil storage of 10,000 gallons or less. It applied to crop oil, vegetable oil, animal fat, and even milk. Further revisions came during April of 2011 when the EPA decided to exempt milk.

The 2009 rule—minus regulating milk spills—was scheduled to go into effect in November 2011. A few weeks before the November deadline, EPA issued a statement saying they would not begin enforcement until May of 2013. While enforcement has been delayed until 2013, the underlying regulation has not been fixed.