

Top 10 Misconceptions About SPCC and FRP

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EPA Freshwater Spills Symposium, May 2nd, 2006

History of SPCC and FRP



**Clean Water Act
(1972)**

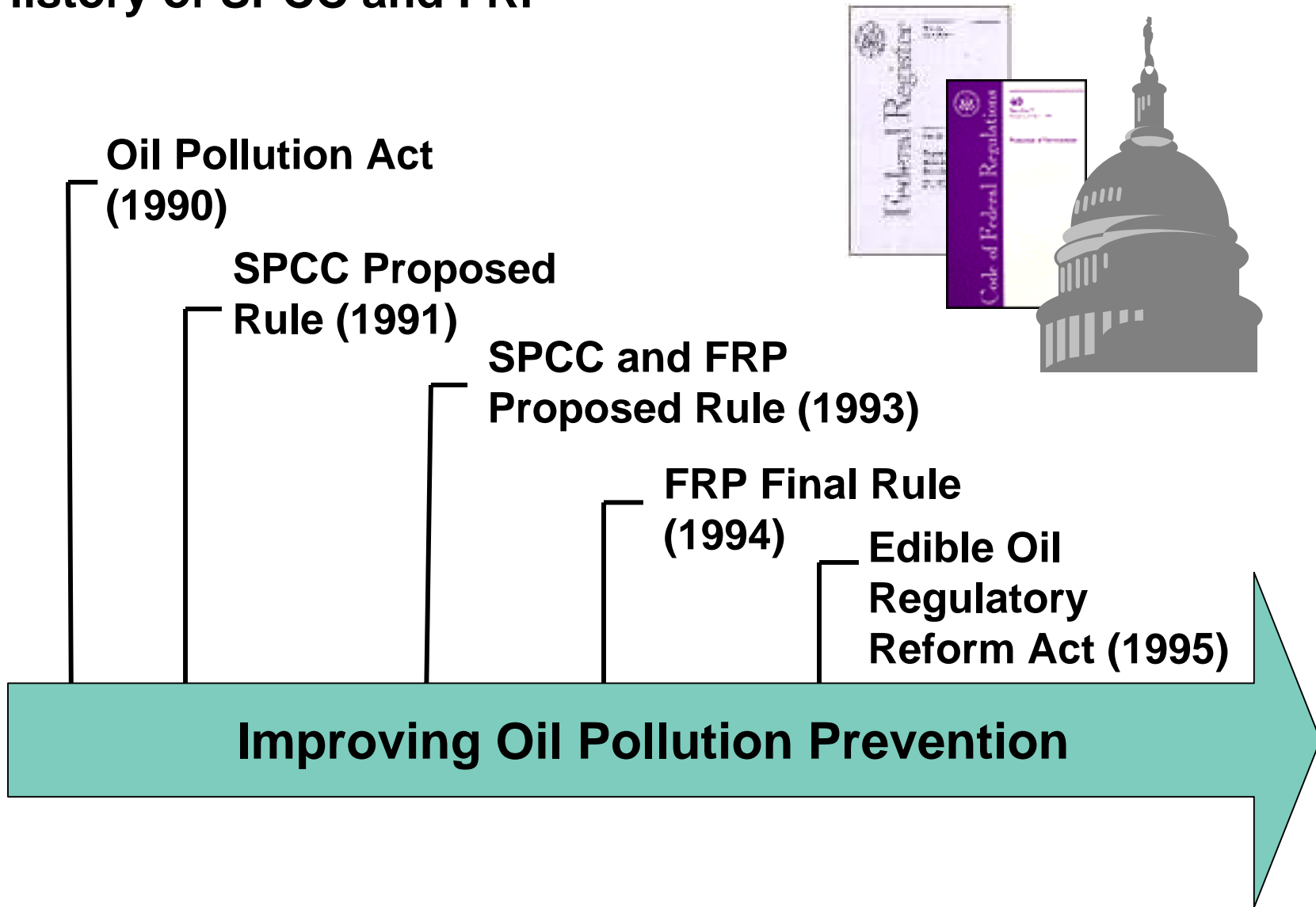
**Original SPCC Rule
(1973)**

**Ashland Oil Spill
(1988)**

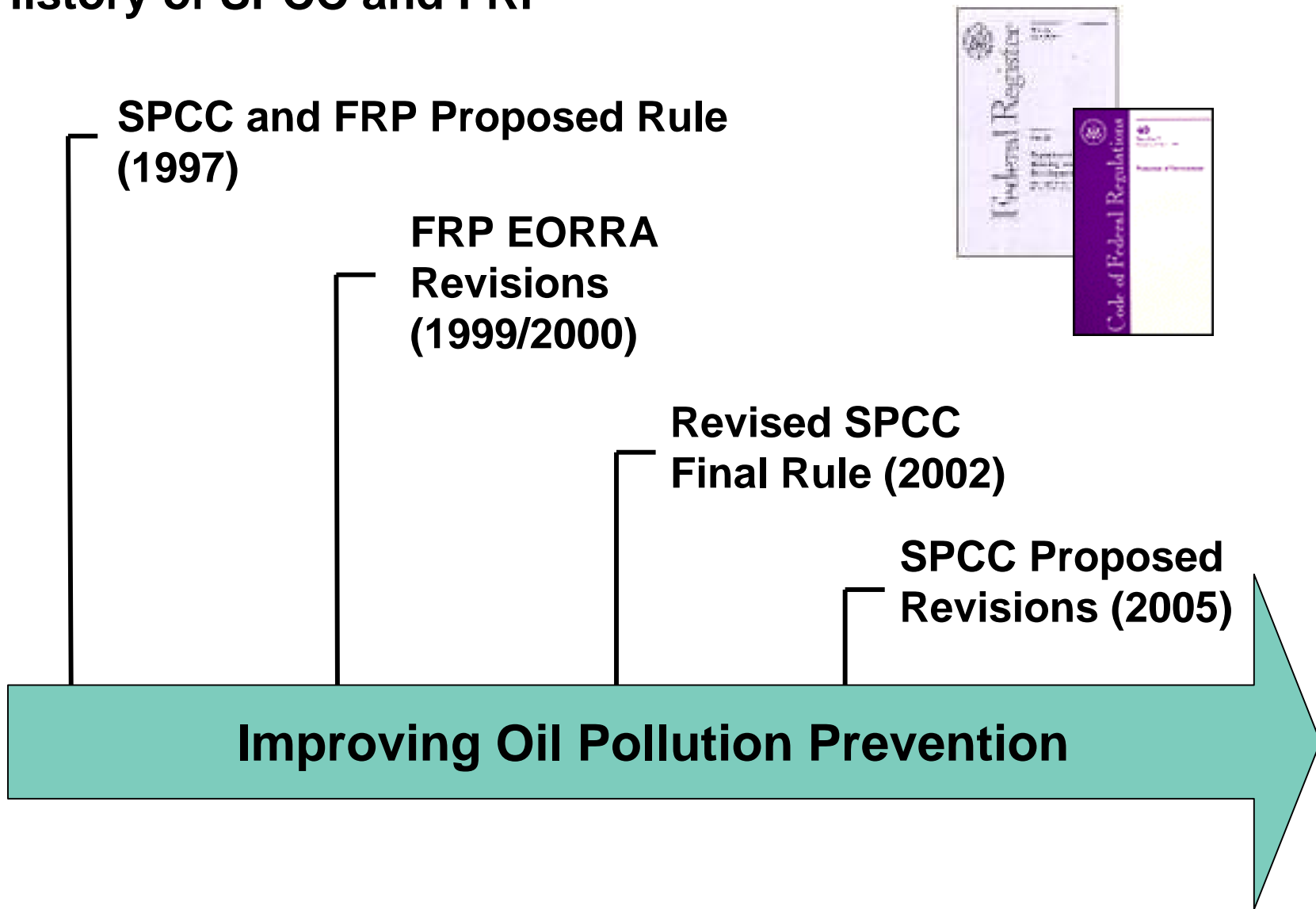
**Exxon Valdez
Oil Spill (1989)**

Origins of the Oil Pollution Prevention Regulations

History of SPCC and FRP



History of SPCC and FRP



Misconception #1: EPA is out to get the regulated community with increasingly burdensome regulations

- ▶ The SPCC rule is not a restrictive, one-size-fits-all regulation – it is a performance-based regulation that allows owners, operators, and certifying professional engineers significant flexibility in meeting its requirements
- ▶ Beyond the regulation’s inherent flexibility, it allows facility owners and operators to deviate from certain requirements when they can demonstrate equivalent environmental protection by some other means
- ▶ The rule also allows for alternative measures in lieu of its specific secondary containment requirements when such containment is not practicable
- ▶ Since 1990, amendments to the rule have focused largely on streamlining and burden reduction – additional burden reduction measures are currently proposed
- ▶ EPA is providing guidance and compliance assistance (e.g., [SPCC Guidance for Regional Inspectors](#) and the Information Center)



Misconception #2: The SPCC rule focuses too much on small, inconsequential discharges

- ▶ The SPCC regulation recognizes that oil spills will occur at non-transportation-related facilities, and its purpose is to prevent such spills from reaching navigable waters or adjoining shorelines in quantities that may be harmful
- ▶ “Quantities that may be harmful” are defined as discharges of oil that
 - violate applicable water quality standards; or
 - cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines
- ▶ Even a small amount of oil spilled into water can have significant impacts – a single pint of oil released into the water can cover one acre of water surface area (*EPA Oil Spill Program Update*, July 1998)
- ▶ Based on oil discharge notifications reported to the Emergency Response Notification System (ERNS), discharges from valves, piping, flowlines, and appurtenances are much more common than catastrophic tank failure or discharges from tanks



Misconception #3: SPCC and FRP requirements do not overlap

- ▶ A relatively small subset of SPCC facilities – those that have the potential to cause substantial harm to the environment in the event of an oil discharge – must prepare and submit Facility Response Plans
- ▶ *Every* facility subject to SPCC must document its determination of whether or not the facility is subject to FRP by completing the “Certification of the Applicability of the Substantial Harm Criteria,” and maintaining the certification at the facility
- ▶ A facility that has submitted an FRP does not need to provide in the SPCC plan a contingency plan and written commitment of resources if any of the secondary containment requirements are not practicable



Misconception #4: Permanent containment structures must be used in all cases to provide secondary containment

- ▶ Facilities subject to SPCC must provide appropriate containment and/or diversionary structures or equipment to prevent a discharge of oil to navigable waters or adjoining shorelines
- ▶ In some situations, permanent (passive) containment structures, such as dikes, may not be feasible
- ▶ The SPCC rule allows for the use of certain types of active containment measures (countermeasures or spill response capability), which prevent a discharge to navigable waters or adjoining shorelines
 - Active containment measures are those that require deployment or other specific action by the facility owner or operator
 - EPA generally believes that active containment measures can be used to satisfy the general secondary containment requirement when they are capable of containing the most likely discharge volume
 - Active measures are not appropriate for all situations with the potential for an oil discharge

Misconception #5: The requirement that a professional engineer (PE) must certify an SPCC Plan is overly burdensome

- ▶ A licensed PE must review and certify an SPCC Plan for it to be effective to satisfy the requirements of the SPCC rule
- ▶ It is not necessary that the PE be licensed in the same state in which the facility is located
 - A PE may familiarize himself with any particular requirements a state may impose and address them in the plan
 - Individual states may prescribe more stringent requirements than EPA
- ▶ A site visit must occur before the PE certifies the plan, but the visit may be conducted by the PE's agent
- ▶ EPA has proposed to allow owners or operators of qualified facilities to self-certify their SPCC Plans



Misconception #6: A facility that is regulated by DOT is *out of* the SPCC regulations

- ▶ DOT has jurisdiction over transportation-related facilities, and EPA has jurisdiction over non-transportation-related facilities
- ▶ A facility with both transportation-related and non-transportation-related activities is a complex and is subject to the dual jurisdiction of EPA and DOT
 - An activity might at one time subject a facility to one agency's jurisdiction, and a different activity at the same facility using the same structure or equipment might subject the facility to the jurisdiction of another agency
 - Whether an activity would be subject to EPA or DOT jurisdiction is defined by the 1971 DOT-EPA Memorandum of Understanding (MOU)



Misconception #7: Fifty-five gallon drums are *out* of the SPCC regulations

- ▶ The SPCC requirements do not apply to any container with a storage capacity of *less than 55 gallons* of oil
- ▶ All containers with a storage capacity of *55 gallons or greater* must be counted toward the aboveground storage capacity threshold and must be addressed in SPCC Plans
- ▶ EPA believes that measures like secondary containment, inspections, or integrity testing are not necessary for containers *smaller than 55 gallons* storing oil because a discharge from these containers generally poses a smaller risk to the environment



Misconception #8: Oil/water separators (OWSs) are *out* of the SPCC regulations

- ▶ The SPCC rule does not apply to any facility or part thereof used exclusively for wastewater treatment and not used to satisfy any of the SPCC requirements
- ▶ The intended use of an oil/water separator determines whether the OWS qualifies for the wastewater treatment exemption
 - Only an OWS used exclusively to treat wastewater and not used to satisfy any SPCC requirement is exempt from all SPCC requirements
 - An OWS used for secondary containment is not exempt and does not count toward the facility's storage capacity
 - An OWS used in oil production is not exempt and is considered a bulk storage container that counts toward the facility's storage capacity

Misconception #9: Oil-filled equipment and associated fuel storage are *out* of the SPCC regulations

- ▶ Oil-filled equipment is excluded from the definition of “bulk storage container” and therefore from the bulk storage container requirements
- ▶ Oil-filled equipment is not excluded from any other SPCC requirements
- ▶ Oil-filled equipment does not include associated storage of fuel used to power the equipment – associated fuel tanks are bulk storage containers
- ▶ For qualified oil-filled operational equipment (but not manufacturing equipment), EPA has proposed an optional alternative to the general facility containment requirement that does not necessitate an impracticability claim
- ▶ Oil-filled equipment on board motor vehicles *and* tanks storing fuel used to power the vehicles (collectively called “motive power containers”) are proposed to be excluded from the SPCC rule altogether



Misconception #10: There is no need to worry about the SPCC requirements before October 2007

- ▶ October 31, 2007, is the deadline for SPCC Plans to be amended or prepared and implemented in accordance with the revised regulations
- ▶ In the interim, all carryover provisions still apply for facilities that were in operation on or before August 16, 2002, though the burden reduction measures in the new rule also apply now
- ▶ The only parts of the SPCC rule that do not apply now (for “existing facilities”) are the technical changes that added new or more stringent requirements
- ▶ Facilities that first became subject to the SPCC regulations after August 16, 2002, technically are not subject to any SPCC requirements until October 31, 2007
- ▶ It is a good idea for owners and operators of existing and new facilities to start working toward compliance now!



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