March 12, 2014

The Honorable Mark Pryor
255 Dirksen Senate Office Building
United States Senate
Washington, DC 20510

Dear Senator Pryor:

The National Society of Professional Engineers (NSPE) herein expresses its concerns with S. 496, the Farmers Undertake Environmental Land Stewardship (FUELS) Act. The FUELS Act would substantially weaken the current EPA Spill, Prevention, Control, and Countermeasure (SPCC) rule, placing the public and the farmers it seeks to protect, at increased risk of devastating oil spills.

NSPE is the sole national organization of licensed professional engineers that promotes the ethical and competent practice of engineering, advocates licensure, and enhances the image and well-being of its members. NSPE serves nearly 35,000 members and the public through 53 state and territorial societies and over 400 chapters. Licensed professional engineers are ethically bound to protect the health, safety, and welfare of the public above all other concerns.

NSPE understands that some members of the agricultural community have expressed displeasure with the current SPCC rule, stating that they simply cannot afford to implement the SPCC requirements in the face of the crop losses they are already grappling with. While we are very sensitive to these concerns, NSPE would like to underscore two important points: first, that the protection of the public health, safety, and welfare must be of paramount importance and; second, that the Congressional Budget Office (CBO) estimates that most farms would be exempt from the rule.

However, for those farms that are not exempt, it is critically important to retain the SPCC rule. Even small quantities of oil can have profound and long-lasting impacts on our nation’s waters and wetland environments which, in turn, impact the public at large and not just the individual farmer. Professional Engineers (PEs) have the unique expertise to certify SPCC plans, expertise that non-engineers simply do not have. Most critically, PEs are bound by a code of ethics to ensure that SPCC plans are implemented properly. Without the prospect of regulation, farms that are permitted to self-certify may be tempted to cut costs and allow oil storage facilities to deteriorate.

Furthermore, under the National Council of Examiners for Engineering and Surveying (NCEES) definition of engineering services, the design, construction, installation, and maintenance of oil storage facilities and the preparation, review, and certification of an oil-spill prevention plan would constitute the practice of engineering under state laws. Enabling small facilities to self-certify SPCC plans...
would violate state engineering statutes by allowing a non-engineer to engage in the practice of engineering.

NSPE greatly appreciates the opportunity to provide this comment. Should you have any questions, comments or concerns regarding this issue please feel free to contact Arielle Eiser, the NSPE Manager of Government Relations at 703-684-2844 or aeiser@nspe.org.

Sincerely,

Robert A. Green, P.E., F.NSPE
2013-14 President