

Renderers Must Still Comply with SPCC Rule Amendments

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On October 15, 2007, the Environmental Protection Agency (EPA) officially published proposed amendments to the Spill Prevention Control and Countermeasure (SPCC) rule that became final in July 2002. The 2002 rule included new requirements for facilities storing or using various classes of oils, including “petroleum; fuel oil; sludge; oil refuse; oil mixed with wastes other than dredged spoil; fats, oils, or greases of animal, fish, or marine mammal origin; vegetable oils, including oil from seeds, nuts, fruits, or kernels; and other oils and greases, including synthetic oils and mineral oils.” EPA did not originally tailor the requirements in the rule that would affect facilities handling animal fats or vegetable oils (AFVOs), but used the same terminology and requirements they used for petroleum oils. Therefore, the National Renderers Association (NRA) believed the SPCC requirements and terminology were inappropriate for facilities handling AFVOs.

The 2002 SPCC rule applied to large and small facilities and to oil users such as farms and food companies as well as to oil producers, refiners, and renderers. The NRA joined a coalition of food and agriculture groups that lobbied EPA to revise the rule so it would be more appropriate for food and feed products. The proposed amendments released in October include several measures aimed at streamlining regulatory requirements, and address the coalition suggestions for a differentiated rule for AFVOs. The EPA did not propose a separate AFVO rule, but rather proposed certain measures that would provide flexibility in complying with integrity testing requirements at AFVO facilities, and exempted many smaller facilities from the requirements.

After several extensions of compliance deadlines by EPA since 2002, facilities subject to the rule (Table 1) must prepare and implement a SPCC plan to prevent any discharge of oil into or upon navigable waters of the United States or adjoining shorelines in the near future. Most renderers with more than 10,000 gallons of AFVO storage will be required to comply with the SPCC rule as it currently stands. SPCC plans must be written and implemented by July 1, 2009.

The General Accounting Office (GAO) chastised the EPA in a July 2007 report for not following White House Office of Management and Budget (OMB) guidelines assessing regulatory impact when amending the SPCC regulations. GAO said the EPA did not follow basic recommendations by the OMB for assessing regulatory impacts of the changes made in 2002 and 2006 to the SPCC rule. The GAO said the EPA did not take into consideration the extent of facility compliance when measuring the economic burden the revised SPCC requirements would have on the regulated community. EPA assumed that facilities were already complying with

the SPCC provisions and concluded that the amendments would not result in additional regulatory burdens, the report said. In the 2002 EPA SPCC rulemaking, the agency made what it referred to as “editorial” changes by replacing the word “should” with “must” in language relating to secondary containment at loading racks. This change made secondary containment at loading racks a “requirement” rather than a “recommendation,” forcing many bulk plant operators to incur extra costs to come into compliance. The recently proposed amendments address many of the concerns in the GAO report.

NRA joined other agricultural interests and commented that AFVOs merit differentiated requirements under the SPCC regulation based on differences between the toxicity and biodegradation profiles of AFVOs and those of petroleum oils. Based on a review of the available science, EPA has determined that not all AFVOs are non-toxic and other non-AFVO oils have toxicity profiles that are similar to some AFVOs. EPA said it is not appropriate to differentiate between AFVOs and other oils based on toxicity or biodegradability.

EPA is proposing to allow flexibility to determine the scope of integrity testing that is appropriate for certain AFVO bulk storage containers – those that are subject to applicable sections of the Food and Drug Administration (FDA) regulation *21 Code of Federal Regulations* (CFR), Part 110, Current Good Manufacturing Practice in Manufacturing, Packing or Holding Human Food, and that meet the following additional criteria: (1) are elevated; (2) made from austenitic stainless steel; (3) have no external insulation; and (4) are shop-built. The operator would be allowed to use industry standards in lieu of the current integrity testing requirements (i.e., visual inspection and some other testing technique), but would have to document the procedures for inspection and testing.

In addition to the specific provisions for AFVO facilities, EPA also proposes to make general changes to improve the flexibility of the integrity testing provisions. The proposed rule would allow owners and operators to rely on industry standards to determine appropriate qualifications for tank inspectors and testing personnel and the type and frequency of testing for particular container sizes and configurations, without the professional engineer-certified explanation of environmental equivalence required under the current rule. In addition, while the proposed rule declines to establish differentiated integrity testing requirements for indoor containers, it does clarify that indoor conditions that reduce corrosion and discharge potential may be considered in establishing a site-specific inspection program.

EPA’s proposed amendments would modify the SPCC rule to clarify that the secondary containment method, design, and capacity need only address the typical failure mode and most likely quantity of oil discharged based on site-specific conditions rather than a worse-case scenario. In addition, the

proposed rule would allow either passive (such as curbing) or active (such as spill kits) secondary containment methods. The proposed rule also clarifies that an SPCC plan may consider the ability of building walls and drainage systems to serve as secondary containment for containers located inside buildings.

The agency proposes to take a performance-based approach to SPCC security requirements by allowing facility owners and operators to tailor their security measures to the specific characteristics and location of the facility, rather than prescribing such measures as lighting and fencing. Under the proposal, the SPCC plan would have to describe how access to oil handling, processing, and storage areas are secured and controlled; how master flow and drain valves are secured; how unauthorized access to starter controls and oil pumps are prevented; how out-of-service and loading/unloading connections are secured; and address the appropriateness of security lighting to prevent vandalism and assist in the discovery of discharges.

EPA proposes to simplify the SPCC facility diagram requirements in response to concerns that documenting the contents of all storage containers with a capacity above 55 gallons is impractical due to seasonal and market changes. EPA would allow owners or operators to provide contents and capacity information about multiple, fixed storage containers, or complex piping or transfer areas, on a table or key rather than in the diagram itself. The amended rule would allow mobile or portable containers to be marked in the diagram as being in a certain area (such as a drum storage area), rather than having to be represented individually in the diagram. In addition, the estimated number of potential containers and anticipated contents could be indicated in a range in the SPCC

plan, or by reference to facility inventory data, rather than in the diagram itself.

The amended rule would modify the definition of “facility” covered to clarify that contiguous buildings, properties, parcels, structures, and pipelines may be considered separate facilities allowing property owners and operators to separate or aggregate containers to determine facility boundaries, based on such factors as ownership or operation of the containers or buildings, similarity of activities being conducted, and property boundaries. Such segregation or aggregation must be supported with a logical explanation.

EPA proposed a new definition of “loading/unloading rack” aimed at clarifying whether the SPCC rule’s tank car and tank truck loading/unloading rack requirements apply. The proposed definition would specify that a loading/unloading rack includes a platform, gangway or loading/unloading arm, and any combination of piping assemblages, valves, pumps, shut-off devices, overfill sensors, or personnel safety devices.

NRA believes the proposed SPCC amendments of October 2007 fall short of addressing the differences between petroleum and AFVO and is preparing further comments. Many in the food and agriculture coalition have been commenting on SPCC and meeting with EPA on it for more than seven years but are still optimistic that EPA desires a practical and workable rule. While industry believes in reasonable regulation and protecting the environment, too much of a “good thing” can unnecessarily increase expense with little benefit to the environment.

Additional information is available on the EPA website at www.epa.gov/emergencies, where EPA provides information to understand, develop, and implement SPCC plans. **R**

Table 1. If not exempt via FDA regulation described in the article, the following would apply:

Qualified Facilities		All Other Facilities
Tier I	Tier II	
If the facility has 10,000 gallons or less in aggregate aboveground oil storage capacity; and	If the facility has 10,000 gallons or less in aggregate aboveground oil storage capacity; and	If the facility has greater than 10,000 gallons in aggregate aboveground oil storage capacity, or
If the facility has not had (1) a single discharge of oil to navigable waters exceeding 1,000 U.S. gallons, or (2) two discharges of oil to navigable waters each exceeding 42 U.S. gallons within any 12-month period, in the three years prior to the SPCC plan certification date, or since becoming subject to the SPCC rule if facility has been in operation for less than three years; and	If the facility has not had (1) a single discharge of oil to navigable waters exceeding 1,000 U.S. gallons, or (2) two discharges of oil to navigable waters each exceeding 42 U.S. gallons within any 12-month period, in the three years prior to the SPCC plan certification date, or since becoming subject to the SPCC rule if facility has been in operation for less than three years;	If the facility has had (1) a single discharge of oil to navigable waters exceeding 1,000 U.S. gallons, or (2) two discharges of oil to navigable waters each exceeding 42 U.S. gallons within any 12-month period, in the three years prior to the SPCC plan certification date, or since becoming subject to the SPCC rule if facility has been in operation for less than three years; or
If the facility has no individual oil containers greater than 5,000 gallons;		If the owner/operator is eligible for qualified facility status, but decides not to take the option;
Then the facility may complete and self-certify an SPCC plan template (proposed as Appendix G to 40 CFR, Part 112) in lieu of a full SPCC plan reviewed and certified by a professional engineer.	Then the facility may prepare a self-certified SPCC plan in accordance with all of the applicable requirements of Part 112.7 and Subparts B and C of the rule, instead of one reviewed and certified by a professional engineer.	Then the facility must prepare a professional engineer-certified SPCC plan in accordance with all of the applicable requirements of Part 112.7 and Subparts B and C.