

Environmental Protection Agency's SPCC Rule

By George Gamble & Michael France

Where are we today?
How did we get here?
Where are we going?



Most FBO or aviation facility managers have at least heard of the Environmental Protection Agency's (EPA) Spill Prevention, Control and Countermeasure (SPCC) plan requirements. Some managers also know that the rules affecting SPCC plan development and implementation have undergone several changes over the last nine years and that the deadline for compliance is November 10, 2011.

SPCC compliance is probably one of the most important pieces of environmental regulation that affects the operation of an on-airport aviation service facility or FBO. Fully understanding the history, current state and future of the SPCC rules will allow managers to ensure that their facility is in compliance.

A Little History

Through the 1960's, lakes, rivers, and streams of the United States were becoming more and more polluted. Dead fish were common in many areas and it was not recommended to eat fish caught in many rivers and streams. The pollution of our nation's waters was getting out of control. President Richard Nixon issued an executive order to establish the EPA and on December 2, 1970, after much debate in Congress, the EPA opened its doors.

The Clean Water Act was passed in 1977 and significantly strengthened existing environmental regulation. These new, strengthened regulations dealt with existing polluters of streams and rivers and provided a regulatory framework to begin the storm water permit process. However, one of the most important laws recognized the potential danger

posed to our nation's streams and rivers from the proliferation of Above Ground Storage Tanks (ASTs). This recognition came in the form of the first Spill Prevention, Control and Countermeasure (SPCC) rules. Early requirements included a written SPCC Plan, including requirements for sized secondary containment and overflow protection for tanks to provide protection for leaks and catastrophic failures.

In January 1988, a 4-million gallon diesel oil storage tank split and collapsed at an Ashland Oil storage facility located in Floreffe, Pennsylvania, near the Monongahela River. The oil was carried by the Monongahela River into the Ohio River, temporarily contaminating drinking water sources for an estimated one million people in Pennsylvania, West Virginia, and Ohio. The pollution also contaminated river ecosystems, killing

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thousands of wildlife, damaging private property, and adversely affecting businesses in the area.

In 1989, the Exxon Valdez disaster occurred in Alaska. That vessel spilled 10.8 million U.S. gallons of crude oil into the waters of the Prince William Sound causing one of the most publicized environmental disasters of recent history and raised the environmental awareness of the nation as a whole.

Resulting from these two major events, Congress enacted the Oil Pollution Act (OPA) in August 1990. The OPA improved the nation's ability to prevent and respond to oil spills by establishing provisions that expand the federal government's ability, money and resources to respond to oil spills.

Major Changes to the SPCC Rule - 2002

The EPA also began working on new requirements for the SPCC rule following these two major spill events. After much work and public comment, the EPA published the 2002 revisions to the SPCC rule. These revisions included new threshold

requirements for tank systems, new requirements for brittle fracture evaluations, a changed time period after which plans must be formally reviewed, and several other items. The EPA required the regulated public to modify their plans to incorporate these new rules and subsequently extended the requirement for compliance to November 10, 2011.

Refueler Trucks

One item that the aviation industry had particular issues with in this newly revised SPCC rule was the EPA's stand on mobile refueler trucks. After the 2002 regulations were published, the EPA inspected several aviation facilities and cited those facilities with improper secondary containment for their refueler trucks. At that time, the EPA considered refueler trucks to be basically the same as any other tank and required the full protection of the secondary containment rules. They cited that refueler trucks must have secondary containment to contain the largest truck parked plus freeboard for precipitation. They recognized that refueler trucks did not require

containment while in operation or while staged for operation; however, when stationary, the trucks would require full secondary containment. Several aviation facilities in Texas and Michigan were cited and were required to install expensive containment structures for their trucks.

Several aviation associations combined their efforts to form the Aviation Coalition to lobby the EPA to provide some relief for this refueler truck issue. The Coalition included the National Air Transportation Association, the Air Transport Association, the American Association of Airport Executives, and several other organizations. This group worked closely with the EPA on several issues, but none more important than the refueler truck issue. After much work, the EPA issued revisions to the SPCC rule in 2006 that allowed the simpler "general secondary containment" provisions to be used for refueler trucks. Under this new rule mobile refueler trucks used exclusively on airport property were exempt from the stringent "sized

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secondary containment" provisions of the rule.

Most Recent Changes

In December 2009, the EPA again issued several new changes to the SPCC rule, including:

- A revised definition of "facility"
- A new definition of "loading/unloading racks"
- Amendments to the facility diagram requirement
- Amendments to the integrity testing requirement to allow for easier use of industry integrity testing standards

The EPA also provided additional streamlined provisions for smaller facilities. Under the previous rule published in December 2006, facilities that store up to 10,000 gallons of total aggregate oil storage could prepare and certify their own SPCC Plan without having a Professional Engineer certify the plan. Under this new rule, if a facility has up to 10,000 gallons of aggregate storage AND no container greater than 5,000 gallons (and several other requirements), then the facility is allowed to utilize a streamlined template provided by the EPA to prepare their self-certified SPCC Plan. This approach is much easier for smaller facilities and could apply to many smaller airports and smaller airport tenant operations.

Important Compliance Dates

November 10, 2011 is the implementation date for all these new revisions dating back to 2002. This means that facilities, built before August 2002, are required to modify their SPCC Plans to incorporate these new regulations. If a facility was

built after August 2002, it has until November 10, 2011 to prepare a plan. It is important to note: if a facility built before August 2002 has not prepared a plan yet, it is out of compliance and should prepare a SPCC Plan as soon as possible to comply with the regulations.

Aviation Industry Perspective – Where is this going?

Where does this leave the aviation industry? Many facilities across the nation still do not have proper SPCC Plans. The EPA provided some significant relief for smaller facilities that may not have had the financial resources to hire a Professional Engineer. This may help a small percentage of facilities, but is it uncommon for aviation facilities to have less than 10,000 gallons of total capacity or any single container less than 5,000 gallons. Most on-airport aviation service facilities are required, due to the size of their storage tanks, to have a Professional Engineer certify their plans.

The bigger issue across the aviation network is proper compliance with the refueler truck rules. Many facilities simply have no containment whatsoever and often do not have proper discussion in their SPCC Plans. The Certifying Engineer has some significant latitude in prescribing proper containment, so facilities should be working closely with their Certifying Engineers to begin installation of any needed devices. It is very important that the SPCC Plan properly discusses the containment provisions for the trucks and also provides adequate protection.

What can we expect from the EPA in the future? The EPA has been relatively quiet with their inspections of aviation facilities. But at the same time, the EPA has very limited resources in this program. After the November 10th compliance deadline, it would be reasonable to expect EPA inspections of aviation facilities to increase. Fines can be significant and inspectors can issue fines on the spot or can utilize higher fines as they progress up the EPA management ladder. EPA inspectors can also simply issue a Notice of Violation (NOV) and require the facility to correct deficiencies within a certain time period. The NOV may or may not include a fine. Recent fines for SPCC rule violations have ranged from a few thousand dollars to more than \$100,000.

It is possible that the EPA will have future modifications to the SPCC rule and facilities will face even more stringent rules in the future. But for now, make sure you have a current, valid SPCC Plan, train your staff in its implementation and maintain all the required paperwork.

For more information on SPCC compliance, contact Michael France, Director Regulatory Affairs, NATA at mfrance@nata.aero **A**

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