



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2007 SEP 21 PM 4:10
REGIONAL HEARING
CLERK

AUG 28 2007

CERTIFIED MAIL #7001 0320 0004 7788 2047
RETURN RECEIPT REQUESTED

Mr. Calvin Theobald, President
Mid Atlantic Vegetable Shortening Co. Inc.
125 Sanford Avenue
Kearny, NJ 07032

RE: Notice of Proposed Assessment of a Civil Penalty
Docket No. CWA-02-2007-3812
Mid Atlantic Vegetable Shortening Co. Inc.
125 Sanford Avenue
Kearny, NJ 07032

Dear Mr. Theobald:

Enclosed is a document entitled "Administrative Complaint and Opportunity to Request Hearing and Conference", hereinafter referred to as the "Complaint". This Complaint is filed against Mid Atlantic Vegetable Shortening Co. Inc., under the authority of §311(b)(6) of the Clean Water Act (Act), 33 U.S.C. §1321(b)(6). In the Complaint, the United States Environmental Protection Agency (EPA) alleges that Mid Atlantic Vegetable Shortening Co. Inc., (Respondent) has violated the Clean Water Act. The violations EPA is alleging are specifically set out under "Claim For Relief" in the Complaint. The amount of the civil penalty proposed to be assessed is \$77,700.

For purposes of determining the amount of any penalty to be assessed, Section 311(b)(8) of the Act requires EPA to take into account the following factors: the seriousness of the violation or violations, the economic benefit to the violator, if any, resulting from the violation, the degree of culpability involved, any other penalty for the same incident, any history of prior violations, the economic impact of the penalty on the violator, and any other matters as justice may require. To develop the penalty proposed in the Complaint, EPA has taken into account the statutory factors with respect to the particular facts and circumstances of this case, to the extent known at this time.

By law, the Respondent has the right to request a hearing regarding the violations alleged in the Complaint and the proposed civil penalty. A request for a hearing must be contained in a written Answer to the Complaint. In accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action

Orders, and the Revocation, Termination or Suspension of Permits; Final Rule," (hereinafter "Consolidated Rules") Fed. Reg. Volume 64, Number 141 (copy enclosed), the Respondent must file a written Answer with the Regional Hearing Clerk within thirty (30) days of receipt of this Complaint if the Respondent contests any material fact upon which the Complaint is based, contend that the proposed penalty is inappropriate or contend it is entitled to judgment as a matter of law. If the Respondent does not file a timely Answer in accordance with the requirements specified in the Consolidated Rules, the Respondent may be found in default and the proposed civil penalty may be assessed without further proceedings. The Respondent has the right to be represented by an attorney, or to represent itself at any stage of these proceedings.

EPA encourages all parties against whom it files a Complaint to pursue settlement discussions with the Agency. Whether or not the Respondent requests a formal hearing, the Respondent may request an informal conference with EPA to discuss the alleged violations and the proposed civil penalty. Specifically, EPA invites information pertaining to the factors in Section 311(b)(8) of the Act. The penalty may be adjusted if the Respondent establishes bona fide issues of ability to pay or other defenses relevant to the appropriate amount of the proposed penalty. The Respondent may represent itself or be represented by an attorney at any conference, whether in person or by telephone. An attorney from the Agency's Office of Regional Counsel (ORC) will normally be present at any informal conference. Please be advised that any informal conferences conducted in person with Agency officials will be held in New York City or in Edison, New Jersey. Please also be advised that a request for an informal conference does not substitute for a written Answer nor does it extend the period of time (thirty days) within which you must file an Answer and request a hearing.

If a mutually satisfactory settlement can be reached, it will be formalized by the issuance of a Consent Agreement and Order signed by you and by the Regional Administrator, EPA Region 2. The issuance of such a Consent Agreement and Order shall constitute a waiver by the Respondent of its right to a hearing on, and to a judicial appeal of, the agreed upon civil penalty. If you have any questions or wish to discuss the possibility of settlement of this matter, please contact:

Tim Murphy
Office of Regional Counsel
U.S. Environmental Protection Agency
290 Broadway - 16th Floor
New York, New York 10007-1866
Telephone: (212) 637-3236

We urge your prompt attention to this matter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "G. Pavlou", written in a cursive style.

George Pavlou, Director
Emergency and Remedial Response Division

Enclosures

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2

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PROTECTION AGENCY-REG. II
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IN THE MATTER OF:

Mid Atlantic Vegetable Shortening Co., Inc.
125 Sanford Avenue
Kearny, NJ 07032

Respondent

Proceeding Pursuant to §311(b)(6) of the
Clean Water Act, 33 U.S.C. §1321(b)(6), for
SPCC Violations

Proceeding to Assess Class II
Civil Penalty Under Section 311(b)(6)
of the Clean Water Act

Docket No. CWA-02-2007-3812

COMPLAINT
FINDINGS OF VIOLATION, NOTICE OF PROPOSED
ASSESSMENT OF A CIVIL PENALTY, AND
NOTICE OF OPPORTUNITY TO REQUEST A HEARING

I. Statutory Authority

1. This Complaint, Findings of Violation, Notice of Proposed Assessment of a Civil Penalty, and Notice of Opportunity to Request a Hearing ("Complaint") is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 311(b) (6) (B) (ii) of the Clean Water Act ("Act"), 33 U.S.C. §1321(b) (6) (B) (ii). The Administrator has delegated this authority to the Regional Administrator of EPA, Region 2, who in turn has delegated it to the Director, Emergency and Remedial Response Division ("ERRD") of EPA, Region 2 ("Complainant").
2. Pursuant to Section 311(b) (6) (B)(ii) of the Act, and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits" ("CROP"), codified at 40 CFR Part 22 ("Part 22"), a copy of which is attached, Complainant hereby requests that the Regional Administrator assess a civil penalty against the Mid Atlantic Vegetable Shortening Co. Inc., ("Respondent") for its failure or refusal to comply with the Spill Prevention Control and Countermeasure ("SPCC") regulations to which Respondent is subject at its facility located at 125 Sanford Avenue, Kearny, New Jersey, as set forth at 40 CFR Part 112 under the authority of Section 311(j)

and other provisions of the Clean Water Act, 33 U.S.C. [§ 1321(j)][§§ 1251 *et seq.*], and notice of Respondent's opportunity to file an Answer to this Complaint and to request a hearing on the proposed penalty assessment.

II. Findings of Violation

JURISDICTIONAL ALLEGATIONS

1. The Respondent is a corporation organized under the laws of the State of New Jersey, with its place of business located at 125 Sanford Avenue, Kearny, New Jersey 07032. The Respondent is a person within the meaning of Section 311(a)(7) of the Act, 33 U.S.C. §1321(a)(7) and 40 CFR §112.2.
2. The Respondent is the “owner and operator”, within the meaning of Section 311(a)(6) of the Act, 33 U.S.C. §1321(a)(6), and 40 CFR §112.2, of a bulk oil storage facility, located at 125 Sanford Avenue, Kearny, New Jersey 07032, the Respondent's premises (“the Facility”).
3. The Respondent is engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, using or consuming oil or oil products located at the Facility.
4. The Facility has an aggregate aboveground storage capacity of greater than 1320 gallons of oil in containers each with a shell capacity of at least 55 gallons.
5. The Facility is an “onshore facility” within the meaning of Section 311(a)(10) of the Act, 33 U.S.C. §1321(a)(10), and 40 CFR 112.2, which due to its location, could reasonably be expected to discharge oil, as covered by 40 CFR 110.3, to a “navigable water” of the United States (as defined by Section 502(7) of the Act, 33 U.S.C. §1362(7), and 40 CFR. §§110.1 and 112.2) or its adjoining shoreline that may either (1) violate applicable water quality standards, or (2) cause a film or sheen 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 (hereafter “reasonably could be expected to violate 40 CFR §§110 and 112”).
6. Frank Creek and the Passaic River are navigable waters of the United States within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7) and 40 C.F.R. § 110.1.
7. The Facility is a “non-transportation-related facility” under the definition incorporated by reference at 40 CFR §112.2 and set forth in an appendix thereto and published on December 18, 1971 in Volume 36 of the Federal Register, at page 24,080.

8. Section 311(j)(1)(C) of the Act, 33 U.S.C. §1321(j)(1)(C), provides that the President shall issue regulations “establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil... from vessel and from onshore and offshore facilities, and to contain such discharges.... ”
9. Initially by Executive Order 11548 (July 20, 1970), 35 Fed. Reg. 11677 (July 22, 1970), and most recently by Section 2(b)(1) of Executive Order 12777 (October 18, 1991), 56 Fed. Reg. 54757 (October 22, 1991), the President delegated to EPA his Section 311(j)(5) authority to issue the regulations referenced in the preceding paragraph for non-transportation-related onshore facilities.
10. EPA subsequently promulgated regulations, codified at 40 CFR Part 112, as amended by 67 Fed. Reg. 47140, *et seq.*, July 17, 2002, (“the SPCC regulations”), pursuant to these delegated statutory authorities, and pursuant to its authorities under the Clean Water Act, 33 U.S.C. § 1251, *et seq.*, which set forth certain procedures, methods and requirements upon each owner and operator of a facility meeting the description in Paragraphs 3 through 7 above if such facility, due to its location, could reasonably be expected to discharge oil into or upon the navigable waters of the United States and their adjoining shorelines in such quantities as EPA has determined in 40 CFR Part 110 may be harmful to the public health or welfare or the environment of the United States.
11. Based on the above and pursuant to Section 311(j) of the Clean Water Act and its implementing regulations, the Respondent is subject to the Oil Pollution Prevention requirements of 40 CFR Part 112.

SPECIFIC CLAIMS

1. Under 40 CFR §112.3(a)(2002), the owner or operator of an SPCC-regulated facility that began operations before January 10, 1974, shall have prepared an SPCC plan not later than January 10, 1975.
2. The Respondent’s facility began operations before January 10, 1974.
3. Under 40 CFR § 112.3(a)(2002), the SPCC Plan must be prepared in writing and in accordance with §112.7 and §112.12.
4. As a result of an SPCC inspection conducted by EPA on July 24, 2007, the Complainant determined that the Respondent had not prepared an SPCC Plan in accordance with 40 CFR §112.7 and §112.12, in violation of 40 CFR §112.3(a). (See Attachment A, attached hereto and incorporated herein).
5. Under 40 CFR §112.3(a), the owner or operator of an SPCC-regulated facility that began operations before January 10, 1974, shall have fully implemented an SPCC Plan not later than January 10, 1975.

6. As a result of an SPCC inspection conducted by EPA on July 24, 2007, the Complainant determined that the Respondent had not fully implemented an SPCC Plan at the facility, in violation of 40 CFR §112.3(a). (See Attachment B, attached hereto and incorporated herein).
7. Under 40 CFR §112.5(a)(2002), the owner or operator of an SPCC-regulated facility is required to complete and document a review and evaluation of the plan at least once every five years from the date such facility became subject to the SPCC regulation, and sign a statement as to whether the plan will be amended.
8. As a result of an SPCC inspection conducted by EPA on July 24, 2007, the Complainant determined that the Respondent had failed to review and evaluate the SPCC plan every five years, in violation of 40 CFR §112.5(a).
9. Under 40 CFR §112.5(a)(2002), the owner or operator of an SPCC-regulated facility is required to amend the SPCC Plan within six months of any change in facility design, construction, operation, or maintenance that materially affects its potential for a discharge as described in §112.1(b).
10. The Respondent's facility underwent changes in design, construction, operation, or maintenance that materially affects its potential for a discharge as described in §112.1(b).
11. As a result of an SPCC inspection conducted by EPA on July 24, 2007, the Complainant determined that the Respondent had failed to amend the SPCC Plan to reflect changes in facility design, construction, operation, or maintenance that materially affects its potential for a discharge, in violation of 40 CFR §112.5(a).

CLAIM FOR RELIEF

1. Complainant realleges and incorporates by reference the allegations in Paragraphs 1 through 11 in Specific Claims above.
2. As alleged in Paragraph 4 above, the Respondent's failure to prepare an SPCC Plan for its facility according to 40 CFR. §112.7 as required by 40 CFR §112.3(a), violated regulations issued under Section 311(j) of the Act. Pursuant to Section 311(b)(6)(B)(ii) of the Act and 40 CFR §19.4, the Respondent is liable for civil penalties of up to \$11,000 per day for each day during which the violation continues, up to a maximum of \$157,500.
3. As alleged in Paragraph 6 above, the Respondent's failure to fully implement its SPCC Plan for its facility as required by 40 CFR §112.3(a), violated regulations issued under Section 311(j) of the Act. Pursuant to Section 311(b)(6)(B)(ii) of the Act and 40 CFR §19.4, the Respondent is liable for civil penalties of up to \$11,000 per day for each day during which the violation continues, up to a maximum of \$157,500.

4. As alleged in Paragraph 8 above, the Respondent's failure to review and evaluate the SPCC plan every five years as required by 40 CFR §112.5(a), violated regulations issued under Section 311(j) of the Act. Pursuant to Section 311(b)(6)(B)(ii) of the Act and 40 CFR §19.4, the Respondent is liable for civil penalties of up to \$11,000 per day for each day during which the violation continues, up to a maximum of \$157,500.
5. As alleged in Paragraph 11 above, the Respondent's failure to amend the SPCC Plan following changes in facility design, construction, operation, or maintenance that materially affects its potential for a discharge, as required by 40 CFR §112.5(a), violated regulations issued under Section 311(j) of the Act. Pursuant to Section 311(b)(6)(B)(ii) of the Act and 40 CFR §19.4, the Respondent is liable for civil penalties of up to \$11,000 per day for each day during which the violation continues, up to a maximum of \$157,500.

III. Notice of Proposed Order Assessing a Civil Penalty

Based on the foregoing Findings of Violation, and pursuant to the authority of Section 311(b)(6)(B)(ii) the Act, 33 U.S.C. §1321(b)(6)(B)(ii), and the Debt Collection Improvement Act of 1996, EPA, Region 2 hereby proposes, issue a Final Order Assessing Administrative Penalties ("Final Order") to Respondent assessing a civil penalty of Seventy-seven thousand Seven hundred dollars (\$77,700). EPA determined the proposed penalty after taking into account the applicable factors identified at Section 311(b)(8) of the Act, 33 U.S.C. §1321(b)(8). These are: the seriousness of the violations, the economic benefit to the violator, if any, resulting from the violations, the degree of culpability involved, any other penalty for the same incident, any history of prior violations, the economic impact of the penalty on the violator, and any other matters as justice may require.

To develop the proposed penalty in this Complaint, Complainant has taken into account the particular facts and circumstances of this case, to the extent known to Complainant at the time of this Complaint.

Based on the Findings set forth above, at a minimum, Respondent has been found to have violated the Act and did not comply with the related SPCC regulations (i.e. development and implementation of a SPCC Plan according to the applicable regulations, etc.), developed to ensure prevention and minimization of contamination of navigable waters of the United States or adjoining shorelines by preventing discharges of oil from facilities and to contain such discharges. The violations discussed in this Complaint are serious and have a potential direct effect on human health and the environment. Respondent obtained an economic benefit as a result of its noncompliance with the Act and the SPCC regulations. Respondent has no prior history of violations.

IV. Opportunity To Request Hearing

In your Answer to this Complaint you may, pursuant to Section 311(b)(6) of the Act and 40 CFR § 22.15(c), request a hearing on any material fact alleged in this Complaint, or on the appropriateness of any penalty it proposes. Even if you do not explicitly request a hearing in your Answer, the Presiding Officer may hold such a hearing if your Answer raises issues appropriate for adjudication. The procedures for any such hearing and for all proceedings in this action are set out in Part 22, a copy of which is enclosed with this Complaint.

Default constitutes an admission of all facts alleged in this Complaint and a waiver of your right to a hearing on such factual allegations. In order to avoid default in this matter, you must within 30 days after receipt of this Complaint either (1) settle this matter with the Complainant; (2) file a written statement with the Regional Hearing Clerk at the address provided below that you agree to pay the proposed penalty in this Complaint, and subsequently pay the proposed penalty no later than 60 days after receiving this Complaint; or (3) file both an original and one copy of a written Answer to this Complaint to:

Regional Hearing Clerk
U.S. Environmental Protection Agency
290 Broadway - 16th Floor
New York, New York 10007-1866

You are also required to provide a contemporaneous copy of any Answer to the Complainant and any other party to this action.

Pursuant to 40 CFR § 22.15, your Answer shall clearly and directly admit, deny or explain each of the factual allegations contained in this Complaint with regard to which you have knowledge. If you state in your Answer that you have no knowledge of a particular factual allegation, the allegation shall be deemed denied. Otherwise, your failure to admit, deny, or explain any material factual allegation contained in this Complaint constitutes an admission of the allegation. Your Answer shall also state the circumstances or arguments for any defense you wish to assert, challenges to any factual allegation in the Complaint, and any basis you may have to oppose the Complainant's proposed penalty.

V. Settlement

If you wish to settle this matter without hearing, you may, subject to the provisions of 40 CFR § 22.18(a)(1), either (1) file an Answer to this Complaint and subsequently pay the full penalty requested within 60 days, or (2) within 30 days of your receipt of this Complaint file a written statement with the Regional Hearing Clerk at the address provided above agreeing to pay, and subsequently pay within 60 days of your receipt of this Complaint, the full penalty.

In either case, your payment shall be made by a cashier's or certified check, or by an electronic funds transfer (EFT). If you are paying by check, pay the check to "Environmental Protection Agency," noting on the check "OSTLF-311" and docket number "CWA-02-2007-3812". If you use the U.S. Postal Service, address the payment to "U.S. Environmental Protection Agency, P.O. Box 371099M, Pittsburgh, Pa. 15251"; if you use a private delivery service, address the payment to "Mellon Client Service Center, ATTN: Shift Supervisor, Lockbox 371099M Account 9109125, 500 Ross Street, Pittsburgh, Pa. 15262-0001."

If you are paying by EFT, you must instruct your agent to transfer funds to "Mellon Bank, ABA 043000261, Account 9109125, 22 Morrow Drive, Pittsburgh, Pa. 15235." (In the case of an international transfer of funds, use the SWIFT address MELNUS3P.) Pursuant to 40 CFR § 22.18(a)(1), you must file a copy of your check with the Regional Hearing Clerk at the address provided above. For EFT transfers, you must instead file a copy of your EFT confirmation with the Regional Hearing Clerk. In either case, you shall simultaneously send a copy of the check or EFT confirmation to the following person at the address below:

Regional Hearing Clerk
U.S. Environmental Protection Agency
290 Broadway - 17th Floor
New York, New York 10007

Whether or not Respondent requests a formal hearing, EPA encourages settlement of this proceeding consistent with the provisions of the Act and its applicable regulations. 40 CFR §22.18(b). At an informal conference with a representative(s) of Complainant, Respondent may comment on the charges made in this complaint, and Respondent may also provide whatever additional information that it believes is relevant to the disposition of this matter, including: (1) actions Respondent has taken to correct any or all of the violations herein alleged, (2) any information relevant to Complainant's calculation of the proposed penalty, (3) the effect the proposed penalty would have on Respondent's ability to continue in business and/or (4) any other special facts or circumstances Respondent wishes to raise.

Complainant has the authority to modify the amount of the proposed penalty, where appropriate, to reflect any settlement agreement reached with Respondent, to reflect any relevant information previously not known to Complainant or to dismiss any or all of the charges, if Respondent can demonstrate that the relevant allegations are without merit and that no cause of action as herein alleged exists. Respondent is referred to 40 CFR §22.18.

Any request for an informal conference or any questions that Respondent may have regarding this Complaint should be directed to:

Tim Murphy, Esq.
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th floor
New York, New York 10007-1866
(212) 637-3236

The parties may engage in settlement discussions irrespective of whether Respondent has requested a hearing. 40 CFR §22.18(b)(1). Respondent's requesting a formal hearing does not prevent it from also requesting an informal settlement conference; the informal conference procedure may be pursued simultaneously with the formal adjudicatory hearing procedure. A request for an informal settlement conference constitutes neither an admission nor a denial of any of the matters alleged in the Complaint. Complainant does not deem a request for an informal settlement conference as a request for a hearing as specified in 40 CFR §22.15(c).

A request for an informal settlement conference does not affect Respondent's obligation to file a timely Answer to the Complaint pursuant to 40 CFR §22.15. No penalty reduction, however, will be made simply because an informal settlement conference is held.

Any settlement that may be reached as a result of an informal settlement conference shall be embodied in a written Consent Agreement. 40 CFR §22.18(b)(2). In accepting the Consent Agreement, Respondent waives its right to contest the allegations in the Complaint and waives its right to appeal the Final Order that is to accompany the Consent Agreement. 40 CFR §22.18(b)(2). In order to conclude the proceeding, a Final Order ratifying the parties' agreement to settle will be executed. 40 CFR §22.18(b)(3).

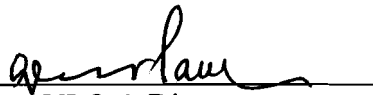
Respondent's entering into a settlement through the signing of such Consent Agreement and its complying with the terms and conditions set forth in the such Consent Agreement terminates this administrative litigation and the civil proceedings arising out of the allegations made in the Complaint. Respondent's entering into a settlement does not extinguish, waive, satisfy or otherwise affect its obligation and responsibility to comply with all applicable statutory and regulatory requirements, and to maintain such compliance.

VI. General Provisions

1. Respondent has a right to be represented by an attorney at any stage of these proceedings.
2. This Complaint does not constitute a waiver, suspension or modification of the requirements of the Act or regulations promulgated thereunder.

3. Neither assessment nor payment of an administrative civil penalty pursuant to Section 311(b)(6) of the Act will affect Respondent's continuing obligation to comply with the Act, and with any regulations promulgated, or orders issued, pursuant thereto.

ISSUED THIS 28th DAY OF August, 2007.



GEORGE PAVLOU, Director
Emergency and Remedial Response Division
United States Environmental Protection Agency
Region 2
290 Broadway
New York, New York 10007-1866

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

IN THE MATTER OF:

Mid Atlantic Vegetable Shortening Co., Inc.
125 Sanford Avenue
Kearny, NJ 07032

Respondent

Proceeding Pursuant to §311(b)(6) of the
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Proceeding to Assess Class II
Civil Penalty Under Section 311(b)(6)
of the Clean Water Act

Docket No. CWA-02-2007-3812

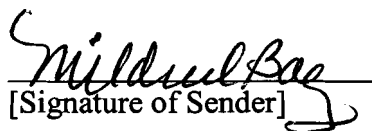
CERTIFICATE OF SERVICE

I certify that, on the date noted below, I caused to be mailed, by certified mail, return receipt requested, a copy of the foregoing "ADMINISTRATIVE COMPLAINT" and a copy of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties," (64 *Federal Register* 40176 *et seq.*, July 23, 1999) to the following person at the address listed below:

Mr. Calvin Theobald
Mid Atlantic Vegetable Shortening Co., Inc.
125 Sanford Avenue
Kearny, NJ 07032

I [hand carried / mailed] the original and a copy of the foregoing Complaint to the office of the Regional Hearing Clerk, United States Environmental Protection Agency, Region 2.

Date: SEP 21 2007
New York, New York


[Signature of Sender]

Attachment A

Mid Atlantic Vegetable Shortening Co., Inc. Kearny, NJ

Failure to Prepare an SPCC Plan in Accordance with 40 CFR §112.7 [40 CFR §112.3(a,b,c)]

1. Plan does not include a discussion of the facilities conformance with all applicable requirements. [40 CFR §112.7(a)(2)]

Failure to Prepare an SPCC Plan in Accordance with 40 CFR §112.12 [40 CFR §112.3(a,b,c)]

1. The facility is an on-shore facility that uses or stores animal fats, oils and greases, fish and marine mammal oils, and/or vegetable oils, including oils from seeds, nuts, fruits, and kernels, and the SPCC Plan does not discuss the specific discharge prevention and containment procedures list in 40 CFR §112.12. [40 CFR §112.12(a)]
2. Plan does not state that the secondary means of containment is sufficiently impervious to contain discharged oil. [40 CFR §112.8(c)(2)]

Attachment B

Mid Atlantic Vegetable Shortening Co., Inc. Kearny, NJ

Failure to Implement the SPCC Plan in accordance with 40 CFR §112.7 [40 CFR §112.3(a,b,c)]

1. Inspections and tests have not been recorded in accordance with written procedures, signed by the appropriate supervisor, and maintained with the SPCC plan for a period of three years. [40 CFR §112.7(e)]
2. Facilities handling, processing or storing oil are not fully fenced, with gates that are locked and/or guarded when the facility is unattended or not in production. [40 CFR §112.7(g)(1)]
3. Drainage of the tank car loading area does not flow into a catchment basin or a treatment facility designed to handle discharges, or into a containment system designed to hold at least the maximum capacity of any single compartment of any tank car loaded or unloaded at the facility. [40 CFR §112.7(h)(1)]

Failure to Implement an SPCC Plan in Accordance with 40 CFR §112.12 [40 CFR §112.3(a,b,c)]

1. The facility is an on-shore facility that uses or stores animal fats, oils and greases, fish and marine mammal oils, and/or vegetable oils, including oils from seeds, nuts, fruits, and kernels, and does not meet the specific discharge prevention and containment procedures list in 40 CFR §112.12. [40 CFR §112.12(a)]
2. Bulk storage container installations are not provided with a secondary means of containment for the entire capacity of the largest single container plus sufficient freeboard to contain precipitation. [40 CFR §112.12(c)(2)]