

February 17, 2009

EPA Docket  
Environmental Protection Agency  
Mail Code 2822T  
1200 Pennsylvania Ave., NW  
Washington, DC 20460

**Re: Docket ID No. EPA-HQ-OPA-2008-0821  
Oil Pollution Prevention; Spill Prevention,  
Control and Countermeasures Rule  
Requirements - Amendments.**

Dear Sir/Madam:

The following comments to the Environmental Protection Agency's (EPA) Proposed Rule entitled Oil Pollution Prevention; Spill Prevention, Control and Countermeasures Rule Requirements - Amendments are submitted on behalf of the National Milk Producers Federation (NMPF) and the National Council of Farmer Cooperatives (NCFC).

The National Milk Producers Federation, based in Arlington, VA, develops and carries out policies that advance the well being of dairy producers and the cooperatives they own. The members of NMPF's 32 cooperatives produce the majority of the U.S. milk supply, making NMPF the voice of more than 40,000 dairy producers on Capitol Hill and with government agencies.

NCFC has represented the interests of America's farmer cooperatives and their nearly 2 million farmer, rancher and grower members since 1929. NCFC members include nearly 50 national, regional and federated farmer cooperatives which, in turn, are comprised of some 3,000 local cooperatives. NCFC's membership also includes 27 state and regional councils of cooperatives. NCFC's mission is to protect the public policy environment in which farmer - owned cooperative businesses operate, promote their economic well - being, and provide leadership in cooperative education.

In the proposed rule, EPA proposes to amend the Spill Prevention, Control and Countermeasures (SPCC) rule to exempt milk containers and associated piping and appurtenances from the SPCC requirements provided they are constructed according to the currently applicable 3-A Sanitary Standards and are subject to the current applicable Grade "A" Pasteurized Milk Ordinance (PMO) or State dairy regulatory equivalent to the current applicable PMO. NMPF and NCFC support the concept of the exemption. In

fact, our comments to the SPCC rule specifically requested that milk storage containers on farms and in processing plants not be subjected to the SPCC requirements due to the level of testing and inspection currently conducted on these containers.

We urge EPA to finalize this exemption to the SPCC rule for all milk and milk product containers, associated piping and appurtenances as soon as possible. In addition to milk (the fluid product), the term milk products includes, but is not limited to, such items as cheese, cream, yogurt and ice cream mix. The final rule should be clear that these products and the containers, associated piping and appurtenances in which they are made or stored, do not present a risk or potential of spilling into navigable waters of the United States. In addition, they should be exempt because these products are not oil.

Some dairy farms, as well as milk, ice cream and cheese processing facilities are covered by the SPCC rule because they use and have onsite: 1) traditional vegetable oil which is used in product formulations, 2) fuel oil, or 3) oil in transformers, refrigeration systems or other equipment. These would continue to be covered by the SPCC rule for their oil storage.

The fundamental reason the SPCC rule exists is to prevent leaks and spills of oil from reaching navigable waters of the United States. According to EPA, leaks typically occur when equipment containing oil deteriorates and corrodes up to the point where the integrity of the equipment is compromised. The primary reason this will not occur in the dairy industry is that the equipment must be constructed in a manner to preclude deterioration and it must be maintained in a manner to keep it clean and free of defects. This is done for reasons of sanitation, product safety, and protection from contamination, but also has the corresponding benefit of protecting from spills.

All of the dairy containers, piping and appurtenances on farms and in processing plants are made of high grade stainless steel and are designed and typically constructed in accordance with 3-A and/or FDA's Current Good Manufacturing Practices (CGMP) or equivalent measures. Cleanliness is provided for by scientifically validated processes which include frequent and thorough inspections by farm or company personnel.

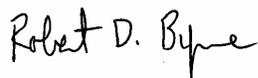
In addition to company inspections, federal and state inspectors operating under the PMO and other authorities frequently inspect dairy farms and processing operations to ensure that the facilities are being maintained in a safe and suitable manner so as to avoid any potential human health issues. In particular, the inspections carried out by company and

governmental personnel look specifically for defects in the equipment. Defects in the form of pits or minor surface imperfections could harbor bacteria and give them a niche in which to grow. The possibility of these defects going unnoticed to the point where the integrity of the equipment is compromised is not realistic. Simply put, our measures to ensure dairy product safety are above and beyond any measures that would occur under a SPCC Plan.

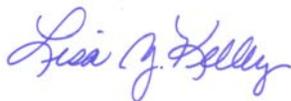
One additional set of regulations that are applied to dairy facilities should also be referenced in the exemption. These are the Current Good Manufacturing Practices contained in 21 CFR Part 110. With the addition of these FDA regulations, all dairy operations would be addressed and none would be unintentionally left out due to PMO applicability (such as a cheese or ice cream facility).

We are pleased that EPA has proposed this action and EPA's efforts in addressing milk and milk products in this proposed rule. Please feel free to contact us to discuss these comments further.

Sincerely,



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Lisa Y. Kelley  
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