



National Milk Producers Federation

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"Connecting Cows, Cooperatives, Capitol Hill, and Consumers"

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August 18, 2010

U.S. Environmental Protection Agency
Ariel Rios Building
Mail Code 2822T
1200 Pennsylvania Avenue NW
Washington, DC 20460

**RE: Oil Pollution Prevention; Spill Prevention, Control, and Countermeasure (SPCC) Rule—
Proposed Amendments (Docket No. EPA-HQ-OPA-2009-0880)**

To Whom It May Concern:

The National Milk Producers Federation (NMPF) submits the following comments in response to the U.S. Environmental Protection Agency's (EPA) proposed amendments to the Spill Prevention, Control, and Countermeasure (SPCC) rule, establishing compliance dates by which farms must prepare or amend, and implement SPCC plans (Docket No. EPA-HQ-OPA-2009-0880). 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 30 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.

Proposed Compliance Extension

NMPF supports the proposed compliance date extension for facilities with milk containers, associated piping and appurtenances (bulk milk storage) until one year after EPA finalizes a rule for these facilities. NMPF has been supportive of both of the compliance extension and special rules recognizing the unique situation with bulk milk storage. In the proposed amendments, however, EPA states that the "compliance date would be delayed one year from the effective date of a final rule specifically addressing SPCC requirements for these milk containers, associated piping and appurtenances, or *as specified by a rule that otherwise establishes a new compliance date for these facilities*" [emphasis added]. We believe that one-year after the bulk milk exemption is finalized is appropriate and discourage EPA from establishing a new compliance date in rulemaking that would be less than one-year after the bulk milk exemption is finalized.

As proposed by EPA, a facility with bulk milk storage that was in operation on or before August 16, 2002, must have an SPCC plan in place now (for all other fuel and oil storage), and would need to make necessary amendments to its SPCC plan and fully implement those by one year after the bulk milk storage exemption is finalized. If a facility with bulk milk storage came into

Jerry Kozak, President/Chief Executive Officer

Randy Mooney, Chairman

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operation after August 16, 2002, but before November 10, 2011, it would be required to prepare and fully implement an SPCC plan by one year after the bulk milk storage exemption is finalized. We find this bifurcated compliance deadline for dairy facilities is unnecessarily complex. **NMPF requests that EPA extend the compliance date for all facilities with bulk milk storage, regardless of business start date, to one year after the bulk milk storage exemption is finalized.**

Milk Container Exemption

On January 15, 2009 (74 FR 2461), EPA proposed to amend the 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. In numerous comments and communications with EPA, we have continuously supported the bulk milk storage exemption to the SPCC rule 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 bulk milk storage 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).

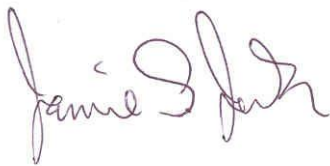
EPA has had roughly almost eighteen months to review public comments and finalize the milk container rule. We view the rule as straightforward, imploring common sense. Any action counter to the proposed rule for milk containers would only add to the confusion for dairy producers on how and when to comply. **NMPF strongly supports the Agency's proposed rule to exempt certain milk containers and associated piping and appurtenances from the SPCC rule (74 FR 2461; January 15, 2009) and encourage EPA to finalize this rulemaking as soon as possible.**

Summary

In conclusion, the NMPF strongly affirms that dairy producers, who supply this nation's milk and dairy foods and rely on well water from their property for their families' needs, are highly motivated to ensure that their environmental practices are sound. These producers strive daily to ensure a safe environment for their children and the communities in which they live.

It is our hope that we can continue to work with EPA to ensure that dairy operations are able to meet new SPCC requirements in a timely and cost effective manner. We thank you for this opportunity to comment and would be available to meet with you to discuss these matters further.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jamie Jonker". The signature is fluid and cursive, with the first name "Jamie" written in a larger, more prominent script than the last name "Jonker".

Jamie Jonker, Ph.D.
Vice President, Scientific & Regulatory Affairs

Jerry Kozak, President/Chief Executive Officer

Randy Mooney, Chairman