

Exemptions and enforcement of SPCC regulations

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The Clean Water Act's Spill Prevention, Control and Countermeasure (SPCC) regulations require onshore oil production and bulk storage facilities to provide oil spill prevention, preparedness and response to prevent discharges in an effort to protect water quality. Under SPCC regulations, "oil" includes petroleum, fuel oil, sludge, oil refuse and other oils and greases such as fats, oils or greases of animal, fish or marine mammals, vegetable oils and oils mixed with waste other than dredged spoil.



Exemption

The SPCC's definition of oil includes milk. However, due to public comment from the dairy industry, the EPA delayed SPCC compliance requirements for milk and milk product containers until November 10, 2011, while it contemplated a final rule exempting the industry. This month the EPA determined that industry construction and sanitation standards applicable to milk and milk product containers adequately addressed spill prevention and there was no need to impose the added burden of compliance with the SPCC.

Milk, milk product containers and associated piping and appurtenances are constructed according to 3-A Sanitary Standards for the industry which satisfy the Pasteurized Milk Ordinance (PMO) model construction requirements, which require operating permits and are subject to state dairy regulatory inspections. The USDA's recommended requirements also consist of quality and sanitation regulations for the production and processing of milk, which the USDA recommends state enforcement agencies adopt. These requirements are similar to those of the PMO and include inspection, certification and licensing provisions.

Because the EPA believed that PMO, USDA or state dairy regulatory requirements applied to all milk or milk product containers, the final rule exempts these from SPCC requirements, and the scope of the exemption was amended to include all milk containers and associated piping and appurtenances because they are also constructed in accordance with 3-A Sanitary Standards and are subject to regulatory and operational requirements including permits, licensing and frequent inspections. Because the final rule adopted the exemption, the November 10, 2011, compliance date has been revoked for the exempted items.

This milk and milk products exemption does not exempt dairy farmers or milk producers from SPCC regulations with respect to containers storing other oils at their facilities. As a result of the exemption, the milk, milk product containers and milk product equipment is not included in the facility's overall total oil storage capacity calculation for SPCC regulation purposes. This may result in some facilities' failure to reach the capacity threshold required for SPCC regulation or may enable other facilities to streamline their SPCC plans.

SPCC enforcement at non-milk facilities

While the EPA has exempted milk and milk products from SPCC regulation, SPCC inspectors continue enforcing their field manual, fining companies, and utilizing the EPA's new expedited settlement agreement procedure.

Lady Bug Oil Company is a recent example. The EPA fined this Blackwell, OK, company \$2,900 for violating SPCC regulations when a recent inspection revealed training records were not maintained for the requisite three-year period (and were not available for inspector review as a result) and certain periodic inspections were not conducted.

Edinger Inc. was recently fined \$2,950 for SPCC violations detected during an inspection at their Caddo County, OK, facility. Violations included inadequacies in spill containment, discharge prevention, drainage controls, and oil storage and labeling measures; training inadequacies in the areas of equipment operations



and maintenance, discharge protocol and pollution control regulations; and failure to conduct periodic visual inspections for maintenance needs.

Both Lady Bug and Edinger participated in expedited settlement agreements with the EPA, certifying that all deficiencies identified have been corrected.

Martin Operating Partnership of Beaumont, TX, was fined \$48,700 for violating SPCC regulations when an inspection revealed the facilities' SPCC plans failed to conform with the federal requirements in that the plans did not describe procedures to manage drainage from diked storage areas, did not describe whether buried piping was present and if such piping was corrosion protected, did not describe truck and rail loading and unloading areas' secondary containment, failed to address security components regarding pump starter controls and master drain and flow valves, and failed to provide adequate secondary means of containment when constructing all bulk storage tanks.

LINKS

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