All About Water

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CURRY & FRIEND PLC
New Orleans | Covington
Recent Regulatory, Legislative, and Legal Updates
The Spill Prevention Control and Countermeasure (SPCC) regulations are a part of the Clean Water Act. SPCC regulations require onshore production and bulk storage facilities to provide oil spill prevention, control, and countermeasures to prevent oil discharges.

Does your facility need an SPCC plan? If you have one, are you in compliance?
Water Regulation and Enforcement

AUGUST, 2012 ALONE

St. Bernard Parish oil production facilities fined $29,400 for SPCC violations
- Failure to conduct adequate self-inspections
- Failure to provide adequate documentation of SPCC training
- Failure to provide adequate secondary containment and equipment

Plaquemines Parish oil production facility fined $7,055 for SPCC violations
- Failure to conduct adequate self-inspections
- Failure of SPCC plan to discuss specific flowline high pressure devices and well shut-in valves
- Failure of SPCC plan to anticipate environmental stresses on piping

Cameron Parish storage terminal fined $14,400 for SPCC violations
- Failure of SPCC plan to provide adequate schedule for tank integrity testing
- Failure of facility diagram to list all oil tankage
- Failure to properly manage retained stormwater
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NO RELEASES PROMPTED THESE FINES
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![Bar chart showing facilities inspected in 2008 and 2009. The chart compares total facilities inspected to the national average.]
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Facilities with Enforcement Actions

- State Formal
- EPA Formal
- State Informal
- EPA Informal

Year 2008: [Data Representation]

Year 2009: [Data Representation]
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![Graph showing Total Assessed Penalties for 2008 and 2009]

- **Penalty Information**
- **Total Assessed Penalties**
- **Year 2008**
- **Year 2009**

- **State Penalties**
- **EPA Penalties**
Water Regulation and Enforcement

Permitting Guidance for Oil and Gas Hydraulic Fracturing Activities Using Diesel Fuels – Draft: Underground Injection Control Program Guidance #84
5.2.5.4. States’ Regulatory Context

Arkansas and Louisiana

At this time, Louisiana does not have regulations or guidelines specifically addressing water reuse. Arkansas had guidelines prior and now has adopted land disposal regulations with a provision for irrigation of forage and non-contact crops.
Water Regulation and Enforcement

Figure 5-23
Average monthly precipitation in the South Central region
Water Legislative Review

Title 43
NATURAL RESOURCES
Part XIX. Office of Conservation—General Operations
Subpart 1. Statewide Order No. 29-B
Chapter 1. General Provisions
§118. Hydraulic Fracture Stimulation Operations
A. The provisions of this Rule shall apply to all new wells for which an initial drilling permit is issued on or after the effective date of this Rule that are stimulated by the application of fluids, which contain proppant such as sand or man-made inert material, with force and/or pressure in order to create artificial fractures in the formation for the purpose of improving the capacity to produce hydrocarbons.
To amend and reenact R.S. 30:961(E) and to enact R.S. 30:961(I), relative to withdrawal of surface water; to extend the time frame within which opportunities for cooperative agreements for such withdrawal may be entered into; to provide for approval by legislative committees of certain cooperative endeavor agreements; and to provide for related matters.
Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 38:216.1 is hereby enacted to read as follows:

§216.1. Water control structures; unauthorized opening; penalties

A. No unauthorized person shall willfully open any water control structure which will result in the drainage of saltwater into any natural water body or drain.
Water Legislative Review

S. 2122: Defense of Environment and Property Act of 2012

112th Congress, 2011–2012

A bill to clarify the definition of navigable waters, and for other purposes.

Sponsor: Sen. Rand Paul [R-KY]
Status: Referred to Committee

Bill titles and the summary above are written by the sponsor. S. stands for Senate bill.

http://www.govtrack.us/congress/bills/112/s2122
Water Legislative Review

S. 2245: Preserve the Waters of the United States Act

112th Congress, 2011–2012

A bill to preserve existing rights and responsibilities with respect to waters of the United States.

Sponsor: Sen. John Barrasso [R-WY]
Status: Referred to Committee

Bill titles and the summary above are written by the sponsor. S. stands for Senate bill.

http://www.govtrack.us/congress/bills/112/s2245
Water Legislative Review

Title 43
NATURAL RESOURCES
Part XIX. Office of Conservation—General Operations
Subpart 1. Statewide Order No. 29-B
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SUPREME COURT OF THE UNITED STATES

Syllabus

SACKETT ET VIR v. ENVIRONMENTAL PROTECTION AGENCY ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT


The Clean Water Act prohibits “the discharge of any pollutant by any person,” 33 U. S. C. §1311, without a permit, into “navigable waters,” §1344. Upon determining that a violation has occurred, the Envi-

Water in the Courts

- U.S. v. Pruett, 681 F.3d 232 (5th Cir. 2012)

  - Appellate court upholds conviction and 21 months imprisonment for company owner and fine of company for Clean Water Act violations

  - Company violated National Pollution Discharge Elimination System (NPDES) permit conditions and testing requirements
Water in the Courts

- Arabie v. CITGO Petroleum Corp. (La. 3/13/12). 89 So.3d 307
  - Civil suit by exposed construction workers after major spill into Calcasieu River
  - Louisiana Supreme Court says no punitive damages for exposed workers; upholds compensatory damages
Water in the Courts

- U.S. v. CTCO Shipyard of Louisiana (EDLA)
  - CTCO pled guilty to criminal violation of LPDES permit, did not collect or test any samples for discharge
  - Fined $525,000 and 3 years probation
THANK YOU!

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