



# Legislative & Regulatory Action Center

## **REGULATORY ALERT**

January 22, 2009

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### WHITE HOUSE FREEZES FEDERAL REGULATIONS

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#### DEVELOPMENT:

The White House this week imposed a freeze on all new federal regulations begun under the Bush administration. The freeze may affect several important rulemakings important to heating oil dealers.

#### BACKGROUND:

The purpose of the freeze is to provide an opportunity for agency directors to conduct a review of the rules to ensure they comply with Obama administration policy. Specifically, the White House issued a memo directing agency directors **not to send any proposed or final rules to the Office of the Federal Register (OFR) for publication and to withdraw any that were already sent but not yet published.** This effectively stops the final rulemaking step. In addition, directors were instructed to **consider** extending for 60 days the effective date of any rule already published but not yet effective. Rules are often published with an effective date sometime in the future, typically 60 days. If directors choose to extend the effective date of such rules then they must re-open the rule with a 30-day notice and comment period. It seems as though the directors have some discretion on whether to issue a 60-day extension.

#### NEFI REACTS:

NEFI contacted the EPA today to determine the effect the freeze would have on two recently finalized SPCC rules governing petroleum bulk storage plants. Among the rules in question –

**1) The final regulation extending the SPCC compliance deadline from July 1, 2009 to November 20, 2009 which was signed on January 14<sup>th</sup> but not yet published**

And

**2) The final rule removing sized secondary containment requirements for parked cargo tank vehicles containing product published last November but not effective until February 3, 2009.**

Both rules are subject to the freeze. The EPA said that it is carefully reviewing the directive to determine how to proceed and that a decision on the fate of the two pending rules should be reached sometime this week. It is important to note that the SPCC deadline extension and the sized secondary containment exemption for parked cargo tank trucks are not considered controversial as they relate to heating oil dealers.

#### BOTTOM LINE:

However, the application of both rules to oil production facilities is potentially controversial and likely to face more serious scrutiny by incoming Obama regulators. If this happens, the SPCC deadline extension and the parked truck exemption may be in jeopardy. **NEFI is working closely with the EPA to insure that this does not happen. We will report back as this issue develops.**

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**PLEASE NOTE:** Reporting to members on regulatory developments or providing pertinent compliance information does not constitute NEFI's support for that particular issue, unless otherwise stated. NEFI only takes positions on public policy issues after consulting its officers, chairs and receiving consensus from the members of relevant committees. NEFI's Government Affairs Committee assembles on a monthly basis to review positions and strategy on timely public policy issues. Feedback from members is always welcome and appreciated!

NEFI REGULATORY ALERT ~ Pub. 2009-Jan-22 ~ Version 1.0.0

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