



Legislative & Regulatory Action Center

REGULATORY ALERT

July 22, 2008

NEFI VICTORY! **SBA CHANGES HEATING OIL & PROPANE DEALER SIZE STANDARDS**

WHO THIS APPLIES TO:

Heating oil dealers (NAICS code 454311) and propane dealers (NAICS code 454312).

REGULATORY ACTION:

The U.S. Small Business Administration (SBA) has granted the request of the New England Fuel Institute (NEFI) to change the small business size-determination threshold under the North American Industry Classification System (NAICS) for heating oil and propane dealers. SBA agreed to change the threshold from one based on gross receipts to one based on the number of employees. Specifically, the new rule defines small heating oil and propane dealers as those with 50 or fewer employees.

BACKGROUND:

Heating oil and propane dealers were in danger of losing small business status as soaring fuel prices made the existing SBA annual gross receipts threshold meaningless and the need for additional credit essential. Under the previous size threshold, heating oil and propane dealers were considered small businesses if their annual gross receipts were \$11.5 million or less or \$6.6 million or less, respectively. In the late 2006, NEFI asked the SBA to change to an employee-based threshold to determine business size as distillate and LPG prices began to rise. The SBA agreed and issued a proposed rulemaking in October 2007 that would set the small business threshold at 50 employees for heating oil and propane dealers. NEFI submitted comments on the proposed rule that were largely incorporated into the final rulemaking. The final rulemaking was published on 7/21/08 after NEFI, concerned about the impending winter heating season and the need for dealers to obtain credit quickly, successfully removed a remaining regulatory roadblock that was causing significant delay of the rule.

IMPORTANCE OF THIS ACTION:

This rulemaking is vitally important because it preserves small business status for heating oil and propane dealers under federal guidelines that are largely used by lenders to extend credit on favorable terms and by state and local governments to determine payment of various fees and eligibility for certain government contracts. As a result of the rulemaking, heating oil and propane dealers will have access to SBA Small Business 7(a) loans, SBA Economic Impact Disaster Loans, and additional private credit from local lenders. Moreover, heating oil and propane dealers will maintain their small business eligibility for payment of the reduced \$275 annual U.S. DOT HAZMAT fee and registration rather than the \$2500 per year fee for large businesses effective in 2009.

NAICS SMALL BUSINESS SIZE STANDARDS SECTOR 445-RETAIL TRADE; SUBSECTOR 454-NONSTORE RETAILING

NAICS CODE	INDUSTRY DESCRIPTION	OLD SIZE THRESHOLD	NEW SIZE THRESHOLD*
454311	Heating Oil Dealers	\$11.5m or less annual gross receipts	50 or less employees
454312	LPG (Propane) Dealers	\$6.6m or less annual gross receipts	50 or less employees

**New size threshold will be effective August 22, 2008*

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!

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