



Legislative & Regulatory Action Center

March 11, 2008

COPY OF NEFI-SUBMITTED COMMENTS ON SPCC COMPLIANCE AND PARKED HEATING OIL TRUCKS

The United States Environmental Protection Agency
Oil Pollution Prevention; Spill Prevention, Control and Countermeasure
Plan Requirements - Amendments

**Proposed Rule 72 FR 58378 (October 15, 2007)
Docket No. EPA-HQ-OPA-2007-0584**

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INTRODUCTION

The New England Fuel Institute (NEFI) is a regional trade association representing small business petroleum marketers engaged in the shipment, storage and sale of petroleum products, primarily heating oil, throughout the Northeastern United States. Typically, NEFI members transport heating oil in cargo tank motor vehicles from a terminal facility, to either company owned intermediate bulk storage plants, or directly to residential and commercial end users. Among those end users served by NEFI members are homeowners, commercial fleet accounts, manufacturers, federal, state and local governments, farmers, gasoline stations/convenience stores operators, airports, railroads, and marinas. NEFI members typically operate one or more bulk storage plants with several small, shop-erected above ground storage tanks.

COMMENTS

Background of the Rulemaking

In the December 2006 amendments to the SPCC rule (71 FR 77266 December 26, 2006) The EPA exempted mobile refuelers from the sized secondary containment requirements applicable to bulk storage

containers. The EPA found that; “(1) requiring sized secondary containment for industrial mobile refuelers “is not practicable and distracts from safety and security monitoring by providing a blind spot and hiding location behind the containment unit; (2) requiring refuelers to park in specially designated secondary containment areas located within an industrial or chemical facility operating area will create safety and security hazards by grouping the vehicles or placing impediments in the operations area; and (3) requiring mobile refuelers to return to containment areas located within the industrial facilities tank farm between refueling operations will increase the risk of accidents (and therefore accidental oil discharge), as the vehicles would travel with increased frequency through the busy industrial operating areas.

Page 2. NEFI Comments, Docket No. EPA-HQ-OPA-2007-0584

The EPA defined “mobile refueler (49 CFR 112.2) as “ a bulk storage container onboard a vehicle or towed that is designed or used solely to store and transport fuel to transfer into or from an aircraft, motor vehicle, locomotive, vessel, ground storage equipment, or other oil storage container.” Later, in the October 15, 2007 proposed rule, the EPA asked for comment on whether the exemption provided for mobile refuelers from the sized secondary containment requirement should be extended to tank trucks including those used to store for short periods of time and transport fuel for transfer to or from bulk storage containers.

Heating Oil Dealers

Heating oil dealers transport fuel oil via DOT specification cargo tanks to residential customers with oil burning furnaces, the primary mode of home heating in the Northeastern portion of the United States. Heating oil is also used in the upper Mid-Atlantic region and parts of the Midwest and Pacific Northwest. Typically, these tank trucks deliver product to small residential heating oil tanks several times per month or more frequently during the coldest part of the winter heating season. At the end of a day’s deliveries, cargo tank trucks return to an SPCC regulated facility where they are parked overnight until the next delivery day. Often, trucks will make emergency deliveries for those customers who run out of fuel after regular business hours during the winter season. Since a quantity of fuel above residue levels remain in the storage compartment of the tank compartments, the trucks are subject to the sized secondary containment requirements under 112.8(c)(2) and (11) and 112.12(c)(2) and (11).

Heating Oil Delivery Trucks are Identical to Mobile Refuelers

Heating oil delivery trucks differ little from the other types of mobile refuelers that are from the sized secondary containment requirement. In fact, they are the very same vehicles used in airport refueling. The same safety and security risks cited by the agency as the basis for the exemption for other mobile refuelers apply to heating oil trucks as well. Grouping these trucks together in a confined area within secondary containment at a heating oil bulk plant poses greater safety and security risks than at most mobile refueling facilities. Heating oil dealers with multiple bulk plants will typically park all trucks in the fleet into at a *single* secondary containment site at their largest facility rather than park them overnight at the various satellite facilities from which they pull product. They do this to avoid the cost of duplicating sized secondary containment areas for trucks at each bulk plant facility. The same security risks created by sized mobile refueling secondary containment areas; blind spots that prevent adequate monitoring and the creation of ideal hiding spots for vandals and potential terrorists, exist for heating oil cargo tank trucks as well. Moreover, traveling to a single location to park overnight in a confined secondary containment area increases travel frequency and thus the risk of accident and discharge for heating oil trucks just as they do for airport mobile refuelers.

Sized Secondary Containment vs. Emptying Trucks Before Parking

Heating oil dealers that do not have sized secondary containment areas for trucks (and many do not) must empty the contents of their tanks back into stationary bulk storage before parking overnight in order to remain in compliance with SPCC requirements. Often times, secondary containment areas for trucks are not constructed due to practical reasons such as available space and entry and exit dangers at the facility and cost. Parking trucks within the secondary containment area at a bulk plant loading rack is not practical because the area is not large enough to more than one or two trucks into the confined space. Also, it is

unsafe to park trucks within the secondary containment areas of loading racks during icy winter weather. Likewise parking trucks within the stationary storage tank secondary containment area is technically very difficult due to the height of earthen dykes and simply dangerous. The only alternative remaining for many heating oil dealers is to transfer leftover product back into the stationary bulk plant each night, a practice **Page 3. NEFI Comments, Docket No. EPA-HQ-OPA-2007-0584**

that significantly increases the risk of a release from a delivery hose or related human failure during the transfer process.

Why Heating Oil Trucks Retain Product After Deliveries are Complete

All this may lead one to ask why heating oil dealers don't simply use better inventory control and delivery practices to ensure that the trucks return empty at night. The answer to this question is that it is extremely difficult due to the nature of residential fuel delivery. Heating oil dealers do not know how much fuel must be delivered to each residential account until they arrive on site. The amount delivered into a single residential tank will depend on prevailing air temperatures occurring since the last delivery, indoor thermostat settings, efficiency of furnace equipment, the age of the residence and even the amount of time customers spend at home. Multiply these variables by the hundreds of customers that a typical heating oil dealer services and it is easy to understand why trucks return at night with product remaining in the tank.

There is also a very strong policy argument for keeping fuel in trucks overnight. The high price of heating oil causes many low and middle-income homeowners, often the elderly, to allow their oil supply to drop perilously low before calling for a delivery. Often, emergency deliveries are required at night after a customer's supply runs out and the furnace shuts down. The time it takes to fill an empty tank truck during extreme cold weather prior to an emergency delivery increases the risk of harm to customers due to cold exposure, fire from the use of supplemental heating devices and burst water pipes.

Cargo Tank Design, Pre-trip, Post-trip, Periodic and Conditional Testing and Inspection

It is important to keep in mind that U.S. DOT specification cargo tanks are constructed to very precise and exacting standards. U.S. DOT regulations require daily pre-trip and post trip visual inspection of the cargo tank shell, piping and valves. These inspections are in written form and kept on file at the owner's principal place of business. The U.S. DOT also requires each cargo tank or cargo tank compartment be tested hydrostatically or pneumatically every five years at a certified retesting facility. The cargo tank, with all its accessories in place and operable must be leak tested at not less than 80 percent of tank's maximum water pressure, with the pressure maintained for at least 5 minutes. Any cargo tank that leaks, bulges or shows any other sign of defect is rejected and must be suitably repaired and retested successfully prior to being returned to service. The retest after any repair must use the same method of test under which the cargo tank was originally rejected. A cargo tank that fails a periodic test may not be filled and offered for transportation or transported until the test or inspection has been successfully completed.

Certain conditions require immediate testing outside of the required five-year retest period. Immediate testing and inspection is required if the cargo tank shows evidence of dents, cuts, gouges, corroded or abraded areas, leakage, or any other condition that might render it unsafe for hazardous materials service. Likewise, an immediate test is required if the cargo tank has sustained damage to an extent that may adversely affect its lading retention capability. A damaged cargo tank must be pressure tested before being returned to service.

It can be argued that cargo tank vehicle design and inspection requirements make them inherently safer and less likely to leak or suffer a catastrophic event than above ground bulk storage tanks (ASTs). Cargo tank vehicles are more closely regulated than ASTs, designed to more stringent specifications and subject to far more inspection and structural integrity testing.

General Secondary Containment Clarification

NEFI supports the EPA's proposal to clarify the general secondary containment requirement standard that allows planning for the "*most likely oil discharge*" as the appropriate containment method. The change would make the general secondary containment requirements under 40 CFR 112.7 (c) consistent with EPA's *SPCC Regional Guidance for Inspectors* and provide facility owners flexibility with respect to selection of the most appropriate secondary containment methods for their facility.

Page 4. NEFI Comments, Docket No. EPA-HQ-OPA-2007-0584

CONCLUSION

NEFI believes that heating oil cargo tank trucks parked overnight at a SPCC regulated facility should be given the same exemption as airport mobile refuelers from the sized secondary containment requirements. Heating oil cargo tank vehicles are essentially the same and often times identical to mobile airport refueling vehicles. The safety and security risks associated with parking heating oil cargo tanks within secondary containment areas are the same as mobile airport refueling equipment. In addition, constructing secondary containment for heating oil cargo tank vehicles is often impractical due to facility size and costly for small business dealers. The alternative to constructing sized secondary containment, emptying cargo tank lading at night, significantly increases the risk of accidental release. The extraordinary design specifications of DOT specification cargo tank vehicles combined with periodic and conditional integrity testing and inspection of tank shells, piping, hoses and valves makes a catastrophic release from these vehicles far less likely than from an above ground storage tank.

NEFI requests that heating oil cargo tank vehicles be included under the mobile refueler exemption because they are essentially the same vehicles performing a similar task. NEFI believes that parked heating oil cargo tank vehicles should be subject the general secondary containment requirements not only due to security, safety, practicality and cost reasons, but also because they are constructed, maintained, inspected and retested in a way that makes a catastrophic leak of the type that sized secondary containment is designed to contain *very unlikely*. Instead, the *most likely* release from a cargo tank motor vehicle is a slow leak from a valve or pipe connection, which general secondary containment requirements could readily and safely address without risk of a discharge of oil in quantities that may be harmful to the navigable waters of the United States.

NEFI is happy to provide additional information to the EPA upon request.

Sincerely,



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The New England Fuel Institute (NEFI)

The Petroleum Transportation and Storage Association and
the Petroleum Marketers Association of American joins NEFI in this comments.