PTSA

Petroleum Transportation & Storage Association

Weekly Update

Regulatory News and Compliance Information for the Petroleum Transportation and Storage Industry
Washington, D.C. Friday, May 20, 2005.

1. FMCSA PROPOSES NEW REGISTRATION AND FEES FOR CARGO TANK OPERATORS:

In a major proposed rulemaking issued this week, the U.S. DOT's Federal Motor Carrier Safety Administration (FMCSA) is proposing to impose new registration requirements and fees on petroleum marketers operating cargo tank motor vehicles. The FMCSA proposal unifies under a single form three existing registration requirements, two of which would be expanded to cover petroleum marketers for the first time. The proposal would require petroleum marketers to file DOT registration number applications, financial responsibility information and identify service of process agents every to the FMCSA every two years. Under current federal regulations, petroleum marketers are not required to file proof of financial responsibility or identify service of process agents to the FMCSA (proof of financial responsibility must be kept on file at the company's principal place of business and identification of process agents is not required). In addition, the proposed rule would impose a "user fee" for the unified registration of $200 plus $10 for each insurance and service of process agent filing. Under current regulations, there is no charge for a DOT number application or renewal. The proposed rule would also require those applicants who self insure to meet financial responsibility requirements to pay an initial $3,000 registration fee, plus file corporate quarterly and annual financial reports with the FMCSA. An additional fee of $2,600 per year would be required from self insurers to cover FMCSA financial revue costs. For ***intra***state operators, the net effect of the proposed rule would be to impose a biannual $200 fee for U.S. DOT number registration. However, the new financial responsibility and service agent requirements would not apply for intrastate operators. For ***inter***state petroleum marketers the net effect of the rule would be a new $200 DOT registration fee, plus new filing requirements for financial responsibility and service of process agents. PTSA will file comments opposing the changes.

2. DOT WILL CLOSE LOOPHOLE EXEMPTING COMBUSTIBLES FROM SECURITY PLAN RULE:

The DOT said this week that an apparent loophole in its recent rulemaking requiring written security plans for HAZMAT transporters exempts combustible materials (heating oil and diesel fuel) from the requirements of the rule. However, the DOT said it would soon close the loophole in an upcoming rulemaking. The DOT security regulations require HAZMAT transporters, including petroleum marketers to have written security plans and impose new security training for drivers designed. The regulations are designed to reduce the risk of HAZMAT shipments being used by terrorists as weapons of mass destruction. The rule was intended to cover all flammable hazardous materials such as gasoline, diesel fuel and heating oil. However, a loophole was created when the DOT failed to cross reference a section in the Hazardous Material Regulations that allows diesel fuel and heating oil to be classified as either flammables or combustibles. Consequently, petroleum marketers who transport diesel fuel or heating oil, but no gasoline, and use a combustible placard are technically exempt from the DOT security regulations. The loophole came to light in a recent letter to the DOT from the executive director of the Dangerous Goods Council, Al Roberts, who for nearly 30 years was head of the very agency that drafted the security regulations. The DOT remains concerned about the security of combustible materials citing their use as a weapon of mass destruction in the Oklahoma City bombing and is asking transporters of those commodities to voluntarily keep their existing security plans in place. The DOT will not enforce the security rule against diesel and heating fuel transporters until the loophole is closed later this year. The security plan and driver training requirements still apply to gasoline shipments.

3. EPA STANDING BY ULTRA LOW SULFUR DIESEL PHASE-IN SCHEDULE:

The EPA said this week that there would be no delay in the deadline for the introduction of ultra low sulfur diesel fuel scheduled to begin in June 2006. The agency's ULSD program has come under fire due to concerns over downstream contamination that will likely throw the 15-part per million (ppm) sulfur requirement out of specification by the time the fuel arrives at retail locations. Residue in downstream

Page 2, PTSA Weekly Update, Friday May 20, 2005.

pipelines, storage tanks and cargo tank vehicles are expected to increase the sulfur content in ULSD to as much as 30 ppm. Non-specification diesel can be sold for use in off-road vehicles, but only for a short time and in limited quantities as the deadline for desulfurization of off-road diesel nears. Shortage of on-road ULSD fuel is expected as the phase-in begins. Nevertheless, the EPA has routinely dismissed downstream contamination concerns and is sticking to the ULSD deadline in order to accommodate the new generation of diesel engines designed to use the fuel and scheduled for introduction in 2007. Those engines can only run on ULSD.

4. NEW STUDY SAYS SAFETY DATA DOES NOT SUPPORT WET LINE RETRO-FIT PROPOSAL:

A new study commissioned by the National Tank Truck Carriers (NTTC) concludes that wet lines are not the cause of most fatalities or spills from side impact accidents between passenger vehicles and cargo tank trucks. The study reinforced what many organizations, including PTSA told the DOT in comments to the agency’s proposed rule to retrofit cargo tank wet lines with purge systems. According to the study, analysis of available data shows that side impact accidents (cars hitting cargo tanks) generally result in tank ruptures and leaks that in-line purge systems could not prevent. CED/Accident Analysis the organization conducting the study for the NTTC, crashed sixty cars of various makes and sizes into tractor trailers to estimate the impact damage to cargo tank trucks in real life situations. The study concluded that even at relatively low speeds (17-42 MPH) the driver of a passenger vehicle that strikes the side of a cargo tank truck would likely die from the force of the impact alone making any subsequent fire and explosion related to wet lines inconsequential. The crash tests also revealed that a side impact at just seven miles per hour was sufficient to shear off wet lines, enabling a passenger vehicle to impact the tank shell itself. Not surprisingly, pick-up trucks and SUVs presented a far greater threat to tank rupture than passenger cars. The study effectively undermines the DOT’s justification for rulemaking since most fatalities, spills and explosions result from tank rupture and not from wet line puncture. PTSA has asked the DOT to suspend the rulemaking due to the lack of sufficient data.

PETROLEUM FACTS:

- Between 1985 and 2005, the number of U.S. refineries fell from 223 to 148. A new refinery hasn't been built in this country since 1976. Through expansion and technology, refining capacity today is greater than it was 20 years ago (17,042 thousand barrels per day in January 2005 versus 15,659 in 1985). However, refineries are consistently running over 90 percent capacity utilization in recent years, compared to 78 percent utilization in 1985.

- OPEC net oil export revenues for 2005 are projected to be $345 billion, a 42% increase from 2003 revenues of $243 billion. The growth in OPEC oil export revenues compared to 2003 levels results mainly from big increases in crude oil prices combined with significant growth in OPEC net oil exports. Higher oil prices come as world spare oil production capacity hovers near historic lows and as world oil demand continues to grow strongly.

U.S. Gasoline and Diesel Fuel Prices, 05/16/05