



Driving Trucking's Success

November 21, 2005

*Via Electronic Filing: DMS*

Dockets Management System  
U.S. Department of Transportation  
400 Seventh Street, S.W.  
Nassif Building, Room PL-401  
Washington, DC 20590-0001

Re: Docket No. RSPA-99-6223 (HM-213B)

Dear Sir or Madam:

The American Trucking Associations, Inc. ("ATA") hereby supplements its April 28, 2005 comments submitted in response to the Pipeline and Hazardous Materials Safety Administration's ("PHMSA") notice of proposed rulemaking entitled *Safety Requirements for External Product Piping on Cargo Tanks Transporting Flammable Liquids* (hereinafter "Proposed Rule").<sup>1</sup> The Proposed Rule would amend the hazardous materials regulations to prohibit flammable liquids from being transported in external product piping ("wetlines") on cargo tanks. The purpose of these supplemental comments is to highlight a cost associated with the Proposed Rule that was not raised in our initial comments.

ATA's initial comments to this docket *inter alia* demonstrated that PHMSA has underestimated the cost of the wetlines purging technology. It has now been brought to our attention that there is an additional cost associated with the implementation of the Proposed Rule that was not included in our original comments. This additional cost stems from the malfunction of the proposed wetlines purging system and is described herein.

The Proposed Rule, if promulgated, would prohibit a tank truck from leaving the loading facility until the wetlines were purged of flammable liquid. Assuming that on occasion the wetlines purging system will malfunction, either because of a faulty pump, incorrect sensor reading, weather conditions, or even something as simple as a burned out indicator light, the motor carrier will be prohibited from driving the truck over the road.<sup>2</sup>

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<sup>1</sup> See 69 *Federal Register* 78375 (December 30, 2004).

<sup>2</sup> We note that the wetlines purging system is a proprietary mechanical system, and like other mechanical systems, will malfunction. We do not have access to data that demonstrates the failure rate of these proprietary systems; however, it is PHMSA's responsibility to obtain these data and quantify the costs as part of the rulemaking process.

In these instances, the motor carrier will have to off-load the product in the compartment of the tank truck that is linked to the malfunctioning wetline. The cost associated with this is significant and must be included as part of the PHMSA cost-benefit analysis that is conducted as part of this rulemaking.

Assuming that the loading rack has adequate parking for a malfunctioning tank truck,<sup>3</sup> the costs of off-loading a compartment include the downtime of the affected tanker as well as the costs associated with the dispatch of a pumper-truck to handle the product that must be removed from the compartment attached to the malfunctioning wetline.

The costs associated with off-loading a compartment may include not only the downtime associated with the operation, but also the cost of the product itself. In many instances, petroleum loading racks do not have the ability (or inclination) to accept returned product. In these instances, the returned product may have to be pumped into a slop tank. There is a significant economic cost associated with this, as the motor carrier bears the financial responsibility for the product once it is loaded into a tank truck and the loading rack may be unable or unwilling to credit the motor carrier or its customer for the returned product. For example, assume that a tank truck has a 3,000 gallon compartment filled with premium unleaded gasoline. Further assume that the wetline purging system for this compartment malfunctions. During pump off, the loading rack may not be willing to credit the motor carrier for the return of the premium unleaded gasoline, but even if the loading rack does, the product may have to be downgraded from premium gasoline to low grade gasoline once mixed with other non-premium product. In this best case scenario – where the loading rack will credit the motor carrier for the product return – the motor carrier still would be liable for the difference in the price between the premium gasoline product and the lower grade gasoline product.

PHMSA must accurately characterize the costs associated with a wetlines purging system that malfunctions. Based on the limited number of wetlines purging systems in service today, we are aware that they do malfunction and that these costs must not be ignored.

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If you have any questions concerning these supplemental comments, please contact the undersigned at 703-838-1910.

Respectfully submitted,



Richard Moskowitz  
Assistant General Counsel  
American Trucking Associations

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<sup>3</sup> We note that many loading racks do not have the space necessary to permit malfunctioning tank trucks to park for the time required to off-load product.