

investigation, the NTSB identified as a safety issue the danger of operating a truck when its cargo tank's unprotected loading lines are carrying hazardous materials. In its report, NTSB expressed particular concern about the severity of the Yonkers accident. As a result of its investigation, NTSB recommended (NTSB Recommendation H-98-27) that the Secretary of Transportation prohibit the carrying of hazardous materials in external product piping, such as loading lines, that may be vulnerable to damage in an accident.

On July 22, 1999, RSPA met with industry and trade representatives, at their request, to discuss the NTSB recommendation. Attendees included representatives from the American Petroleum Institute (API), Truck Trailer Manufacturers Association (TTMA), Petroleum Marketers Association of America (PMAA), National Tank Truck Carriers, Inc. (NTTC), Sigma, Sunoco, BP Amoco, and Marathon Ashland. Discussions focused on the cargo tank industry's development of alternative solutions for unprotected product piping. We indicated that we were aware of a purging system under development and invited industry to provide cost data or information on any other potential solutions.

On December 4, 2000, the Office of the Secretary of Transportation, General Counsel, on behalf of RSPA, submitted a significant NPRM to the Office of Management and Budget (OMB) for consideration. In the NPRM, we proposed to adopt a performance standard for substantially eliminating product from unprotected piping that could be met with current technology or by other innovative systems developed by industry.

The proposal required that all affected cargo tanks conform to the performance standard within seven years, allowing for two years of research and development, and, dependent upon the cargo tank's pressure test date, a maximum of five years for retrofits to achieve compliance.

The proposed rule provided an exception for truck-mounted tanks, based on inherent safety features, significantly reducing compliance costs to small businesses. The Petroleum Marketers Association of America (PMAA), a federation of 42 state and regional trade associations, represents 7,850 small, independent petroleum marketers that sell nearly half the gasoline consumed in this country. In a May 23, 2000 letter, PMAA suggested that straight trucks should not be included in any proposed rulemaking because it was unaware of any wetlines-related fatalities involving straight

trucks. The PMAA supported its suggestion by noting that the general design and construction of straight trucks is such that the placement of external product piping is afforded protection by the frame of the truck, the meter box and tool boxes. (The PMAA letter is in the docket for this rulemaking.)

On January 22, 2001, the NPRM was withdrawn for review by the current administration in accordance with a White House Chief of Staff directive. After review by the Secretary of Transportation, the NPRM was resubmitted to OMB for consideration.

On August 10, 2001, OMB returned the NPRM to the Department for reconsideration. In its return letter, OMB expressed concern with the methodology used to determine benefits and the true costs required to achieve them. First, regarding the retrofit of existing cargo tank motor vehicles, OMB was concerned that RSPA was engaging in a "risk-risk" tradeoff, that is, the increase in risk to install (*i.e.*, welding) a system to eliminate wetlines outweighed the benefits realized in lives saved on public highways. Second, OMB questioned whether some or all of the reported fatalities in the NPRM were the result of causes unrelated to wetlines (*e.g.*, blunt force trauma). Third, OMB questioned why RSPA would extrapolate the number of fatalities and injuries multiplied by a factor of 1.5 due to suspected under-reporting of incidents involving wetlines. OMB cited RSPA's "Preliminary Assessment of Risk/Benefit-Cost," dated January 25, 1999, as stating that this increase in benefits might overstate the risks but was necessary when considering any rulemaking action. (This document is available for review at the RSPA Hazardous Materials Safety Web site, http://hazmat.dot.gov/risk_analyses.htm, and the DOT Docket Management System Web site, <http://dms.dot.gov>.) Finally, OMB did, however, indicate support for the prohibition of wetlines on newly constructed cargo tank motor vehicles based on the proposal's greater net benefits to society. (The August 16, 2001 OMB letter is in the docket for this rulemaking.)

It is because of these and other uncertainties with regard to cost vs. benefit and new construction vs. retrofit that we have chosen to issue an advance notice of proposed rulemaking. It is our intent to take a "fresh look" at this issue by soliciting comments on the narrative discussion and answers to the questions posed in Section V of this notice.

II. Fatal Accidents Attributed to Wetlines

The unprotected product piping on a five-compartment cargo tank motor vehicle carrying gasoline typically contains 30–50 gallons of gasoline. If a passenger vehicle strikes the side of a cargo tank motor vehicle, the impact likely will fracture the wetlines. In such collisions, the passenger vehicle is often wedged under the cargo tank motor vehicle. With the automobile driver and passenger(s) trapped in the vehicle under the cargo tank and the fractured product piping releasing 30–50 gallons of gasoline, the gasoline spills onto, underneath, or into the passenger vehicle. If ignited, fire rapidly engulfs the driver and passenger(s) inside their vehicle. When ignited, a gasoline spill of 50 gallons will be fatal to persons within a zone of approximately 41 feet, dooming those trapped in a vehicle at the site of the release and fire. If the fire is not extinguished immediately, it may spread from the gasoline originally contained in the product piping to the gasoline contained in the cargo tank motor vehicle. In this instance, the safety threat to the surrounding community is significant.

Since 1992, there have been seven reported accidents, resulting in eight fatalities, where wetlines were damaged and gasoline released. These fatal accidents primarily involve collisions with passenger vehicles. Our experience with the HMIS indicates that there is a degree of under-reporting of hazardous materials transportation accidents of all types. In addition, prior to October 1, 1998, certain intrastate highway carriers were not required to report hazardous materials releases to RSPA. Therefore, the HMIS data probably do not include all accidents involving damage to wetlines on cargo tank motor vehicles.

In this section, we describe a sampling of five fatal wetlines accidents. These descriptions provide an indication of the nature of the safety problem and its possible consequences. In these five accidents, six fatalities appear to have resulted from fires that ignited after passenger vehicles struck wetlines that then released gasoline.

Long Beach, CA (one fatality). On November 22, 1992, in Long Beach, California, a passenger vehicle struck a cargo tank motor vehicle on the right side and ruptured the unprotected product piping. Approximately 26 gallons of gasoline and diesel fuel were released and ignited immediately. The driver of the passenger vehicle died in the accident.

Houston, TX (one fatality). On October 1, 1994, in Houston, Texas, the