

Comments captured during review of previously proposed language

During the 3/21/05 meeting discussions were held on proposed Regulation 24 Section 46. During the meeting Subsections **a**, **b** and **c** were completed. Discussion on Subsection **e** were begun, but were not completed when the meeting closed at noon. Discussion on Subsection **e** and other subsections will continue at the next meeting on 5/2/05.

Subsection a. Applicability

- Paragraph a.2. provides partial exemption from regulatory requirements for lightering operations in cases of emergency.
 - As initially written, lightering operations conducted during emergencies were fully exempted from all requirements, while the intent was to exempt only certain requirements. There was a recommendation to exempt only requirements of subsections c. through f.
 - One suggest alternative was to specify those paragraphs of subsections g. and h. that would not apply also.
 - Another alternative suggested including a disclaimer to the affect that “notwithstanding the above” the following requirements would not apply during emergency lightering operations.
 - Another alternative suggested having a separate subsection to address emergency lightering requirements and exemptions.
- Paragraph a.3. addresses a general disclaimer that provides primacy of USCG regulations and requirements should there be a conflict with the requirements of proposed Regulation 24 Section 46.
 - In addition to the vessel and people on board, there were recommendations to include the cargo and environment as well.
 - The use of “passengers” is possibly a troublesome term. Alternatives suggested were to leave “passengers” out completely or use “human life” as a collective of crew, etc.

Subsection b. Definitions

- Paragraph b. “Baseline volume” is essentially the total volume of volatile organic liquids lightered in Delaware waters.
 - It was suggested that since the BLV used in subsection d. applies only for the five-month ozone season that the BLV definition should be based on the five-month season and not the entire year.
 - With regards to the above item, the definition needs to be connected to the final formula incorporated in subsection d.
- Paragraph b. “Baseline volume” is currently defined as the total volume of volatile organic liquids lightered in Delaware waters.
 - To the question on how to establish the BLV and how would it apply to a given operator, no real solutions were offered.
 - It was pointed out that differentiation may be required to address different cargos (crude, refined products).

- It was pointed out that AQM will not know the BLV, until it knows the volume being lightered by the other operators in Delaware waters.
- The regulation would need to accommodate changes in market players and market share.
- Unrelated, but tied to this subject, there was discussion on permitting these other operations and controlling their emissions as well.
- Paragraph b. “Leak testing” is a typical land-based LDAR definition. This definition language conflicts with the sensory leak testing defined in paragraph c.4. It was recommended to change the b. definition of leak testing to be consistent with c.4.
- It was recommended to change the subsection b. definition of the “marine tank vessel” to the one used by USCG.
- There were several expressions of concern with the subsection b. definition of “Emergency lightering.”
 - Some participant thought the definition was too restrictive, as there could be other times/reasons for which emergency lightering might be needed than allowed in the proposed language. It was recommended that the regulation included those occasions when lightering operations were directed by the USCG.
 - Several examples were given to support expanding the definition. However, a couple examples might be construed as less of an emergency and more of convenience or timing issues.

Subsection c. Standards

- Paragraph c.1. provides the lightering operator with three options of complying with the emission limitation, one option being to perform vapor balancing. Given that vapor balancing is virtually a lock for the option of choice, it was proffered whether to simply drop the other two options. Those with opinions thought the three choices should remain as currently proposed.
- Paragraph c.3. provides a maximum operating pressure for the service vessel’s vapor collection system. Since this is also an USCG operating requirement, it was proffered to delete this requirement. Those with an opinion agreed with the suggested deletion. There was a comment that the pressure was higher than the USCG.
- Paragraph c.5. provides restrictions to uncontrolled lightering operations on an ozone action day (OAD). As in 2001, there were considerable discussions on the negative impact this paragraph will have on the normal transport of crude oil up the Delaware River.
 - It was pointed out that suspending lightering operations on consecutive OADs would have a significant impact on the refineries that do not have more than 3 days of crude oil inventory. The Athos spill resulted in a three plus day suspension of crude oil up the Delaware River.
 - It was pointed out that should a refinery have to shutdown, their resulting shutdown and restart emissions would be more than what was saved by suspending the lightering operation.
 - It was suggested that the regulatory language could provide the Secretary with an option to override the OAD curtailment.
 - A number of questions and comments about the OAD process were tendered; those can be found on the bucket list for the meeting.

- Paragraph c.6. provides that service vessel must use submerged fill when receiving cargo. The meaning of submerged fill was questioned and discussed. While AQM's requirement is probably consistent with USCG regulations, the reasons are different; safety (USCG) and reduced emissions (AQM).

Subsection e. Construction and operating permits

- Subsection e. defines the permitting requirements. Considerable discussion ensued over the inclusion of permitting requirements in the proposed regulation.
 - Construction permits are possibly of greater concern than operating permits. Maritrans feels trapped with the requirement to obtain written approval to construct from both the USCG and AQM, prior to initiating construction. Additionally, they expressed concern of having different, possibly, contradicting requirements from the two organizations.

It was pointed out that the contradiction should not exist because of paragraph a.3. which states that nothing in the proposed regulation shall violate a USCG requirement or regulation.

- The need for a construction permit is potentially clouded when a new service vessel might be brought into Delaware waters that may have had construction undertaken while serving in other waters.
- There were questions about how AQM would permit other lightering operations. One suggested solution would be to create a source category permit or boiler plate permit for these other smaller operations.
- There was a comment that the coast zone permitting requirements have been in the news lately and could the CZA have an impact on new equipment or operators.

Note: The meeting ended prior to completion of the discussion on permitting.

Bucket List Items

- Concern was raised on whether the STBL crews coming into Delaware water will be adequately trained to operate in vapor balancing mode versus the more normal vapor collection mode. There was no concern expressed regarding the adequacy of Maritrans training.

It was generally accepted that the STBL crews were adequately knowledgeable of the vapor collection systems. But they were not experienced in operating them in a vapor balancing mode of operation. The recognized exception was a crew that had operated in the North Sea.

This concern led to the question as whether existing USCG requirements or oversight addressed the adequacy of training of STBL crews.

- Maritrans is a major source and has a Reg. 30 permit, thus paying title V permitting fees. Since the other possible lightering operators do not have any Delaware air permits, they operate unencumbered of any state permit requirements and are not paying any permitting fees. Is that appropriate?
- It was suggested that CARB recognizes that there may be some small time or occasional lightering operators operating in their waters. In this case, CARB reportedly has instituted a program that requires these operators to register and annually report the frequency and volume of their lightering operations to maintain the permit exemption.
- What is the duration of an ozone action day?
- Are all counties in the Metropolitan Area given the same OAD designation?
- What is the frequency of multiple, consecutive day OAD declarations?
- Could language be added to the regulation or does language already exist in the statutes or other regulations that allows the Secretary to make a case-by-case exemption from the OAD lightering operation restrictions, if requested by the lightering operation or their customer?
- What is the USCG regulation as to the allowable operating pressure of the vapor recovery system with respect to the setting of the pressure relief device, 80%, 90% or other?