

Friday, December 1, 2023

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Pipeline and Hazardous Materials Safety Administration
U.S. Department of Transportation
Dockets Operations, M-30, Ground Floor, Room W12-140
1200 New Jersey Avenue SE
Washington, DC 20590

Re: Comments on the Modernization of Regulations ANPRM [Docket no. PHMSA-2019-0031 (HM-265A)]

Dear PHMSA,

I am writing on behalf of the Renewable Fuels Association as the Director, Environment, Health & Safety to express my concerns and opposition to the Hazardous Materials: Modernizing Regulations to Improve Safety and Efficiency – advanced notice of proposed rulemaking (ANPRM). While I understand the importance of periodically reviewing and updating regulations to ensure safety and effectiveness, I believe that certain aspects of the proposed changes warrant careful consideration and revision.

As a representative of the ethanol industry, I would like to state that I share PHMSA's position that "a direct external visual inspection of the gasket is the only way for an offeror to meet the inspection requirements as written in § 173.31(d)(1)(ii) to ensure the tank car is safe for transportation." The fuel ethanol loading process has been carefully designed to protect employees, tanker car equipment, and the environment. One of the first steps during the ethanol loading process involves checking the man-way gasket for serviceability before lowering the loadout stinger. Upon completion of loading, the hinged lid is lowered, and bolts are fastened in a specific pattern to ensure proper seal. To quantify these inspections annually, an ethanol plant that produces approximately 130 million gallons of ethanol per year will inspect these gaskets approximately 4000-4500 times per year. It takes about 3-5 minutes to inspect a gasket and about the same amount of time for replacement.

While the 2018-2020 data on non-accident releases (NARs) show that 29% occurs at the manway, the statistics will show that fuel ethanol tanker cars are among the lowest percentages

for such leaks. In fact, the ethanol industry continues to maintain an impeccable safety record and has been recognized for the 11th consecutive year in a row for the National Achievement Award from TRANSCAER, a national hazardous materials safety coalition.

PHMSA has stated, “that it may be in the interest of safety as well as reduction of regulatory burden to encourage tank car shippers to keep manways closed during loading and unloading, and accordingly allow for an alternate method of inspecting the integrity of the manway gasket.” This statement could not be further from the truth with regard to the ethanol industry. The loadout systems at over 190 U.S. ethanol facilities require “splash loading,” to maintain lower pressures and to safely capture highly flammable vapors from releasing to the atmosphere. This process is similar to when individuals fuel up their motor vehicles at a gas station. Consumers cannot simply leave their gas caps on while fueling their cars and trucks. If the manways were to be closed during loadout, it would require significant changes to pumps and highly sophisticated vapor recovery systems that may make the process even more dangerous to personnel and the environment.

It is imperative to recognize that the need for modernization of regulation should not be universal, rather we recommend that a commodity-based approach should be applied. As noted in the ANPRM, companies like Dow Chemical and Phillips 66 require special permitting to avoid opening manways on their tanker cars during loading. A special permit process allows organizations to more thoroughly review their loadout procedures to ensure safety. The same could be accomplished by requiring all facilities to define standards for loadout based on the commodity being loaded.

PHMSA requested comments on a series of questions to assist with evaluation of special permit request and potential regulatory revisions. For the purposes of this comment period, I would like to address question 7 and its subparts.

7. Given the reliability issues that arise with hinged and bolted manway covers, should PHMSA consider phasing out hinged and bolted manway covers altogether?

No, PHMSA should not consider phasing out hinged and bolted manway covers altogether. We believe that phasing out hinged lids would create more safety hazards at the point of loading. The hinged lid provides an ergonomic safety feature that protects employees from back injuries, pinching, and even falling objects. An employee simply unbolts the manway and can open the heavy lid with ease and without risk of losing the lid off the side of the railcar.

a. If hinged and bolted manways were no longer authorized on general purpose tank cars, how would loading operations need to be altered? What would be the costs of altering those loading operations?

If hinged and bolted manways were no longer authorized on general purpose tank cars, specifically the DOT 117J, the vapor recovery systems at all ethanol facilities would be to be

completely redesigned for pressurized loading, versus splash loading. Most facilities can load a rail car in approximately 30 minutes and safely recover the highly flammable vapors. A pressurized system could create more dangerous conditions and higher risks for loss of containment. Additionally, create an unnecessary time burden for loading a tanker car that was designed and intended to be “splash filled.”

b. Several hazardous materials authorized in general purpose tank cars are loaded through the hinged and bolted manway cover. Are there materials that can only be loaded using the hinged and bolted manway cover?

We believe that ethanol should be loaded only using hinged and bolted manway covers.

c. A fittings plate is an option for loading a tank car without operating the hinged and bolted manway cover. Is there other technology that would be utilized in place of hinged and bolted manway covers? If yes, please describe.

To our knowledge there has not been technology specifically designed to load ethanol into a fittings plate on a DOT117J tanker car. The concerns we have identified with this technology would be vapor recovery, over pressurization of tanker cars and significant loading time increases.

d. What would be the associated costs of replacing hinged and bolted manway covers with a fittings plate or an alternative closure?

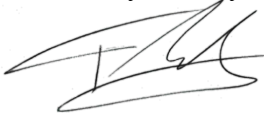
It has been estimated that the costs associated with replacing the hinged and bolted manway covers with a fittings plate could range from \$5000-6500 per tanker car. A typical plant that produces 130 million gallons of ethanol per year has approximately 400 cars in their fleet, so the costs could range from \$2 million to \$2.5 million – a huge financial burden that we believe is entirely unnecessary. The cost benefit analysis based on real statistical data from ethanol tanker car incidents, new potential risks to employees and the overwhelming costs to redesign ethanol vapor recovery systems, do not outweigh status quo.

e. What length of transition time would be needed to completely remove all hinged and bolted manway covers from tank cars?

The transition time to make such changes would be similar to the period of time it took to upgrade the DOT111 tanker cars to the DOT117J, so 3-5 years. This does not include the time it would take to alter the existing loadout and vapor recovery systems at over 190 ethanol plants nationwide.

In summary, our industry believes that the hinged and bolted manway design for ethanol rail tanker cars should not be altered. The design allows for safe loading of ethanol to personnel, equipment, and the environment. Our industry values the opportunity to visually inspect the manway gasket prior to every ethanol tanker car before it is loaded. Given our unmatched safety record in the ethanol industry we cannot help but ask the question “Why change something that isn’t broken?” As stated at the beginning of this letter, we applaud PHMSA for taking the time to periodically review and update regulations to ensure safety and effectiveness, but in the case of hinged and bolted manways on our tanker cars, we believe the current standards should remain in place. Further if such changes are to be made, we recommend that it be based specifically to the commodity that is being shipped.

Thank you for your consideration,



Justin Schultz