



August 4, 2009

U.S. Chemical Safety and Hazard Investigation Board
Office of General Counsel
Attn: C. Kirkpatrick
2175 K Street N.W., Suite 650
Washington, D.C. 20037

Re: Comments on the advance notice of proposed rulemaking "Chemical Release Reporting," 74 Fed. Reg. 121 (30259), June 25, 2009

Dear Mr. Kirkpatrick:

The International Liquid Terminals Association (ILTA) is pleased to submit the attached comments on the above-referenced advance notice of proposed rulemaking (ANPR).

ILTA is an international trade association that represents eighty-five commercial operators of bulk liquid terminals, aboveground storage tank facilities, and pipeline companies located in forty-three countries. In addition, ILTA includes in its membership more than three hundred companies that are suppliers of products and services to the bulk liquid storage industry.

ILTA member facilities include deepwater, barge, and pipeline terminals whose bulk liquid commodities are essential to the national and international economies. These terminals interconnect with and provide services to the various modes of bulk liquid carriers, including oceangoing tankers, barges, tank trucks, rail cars, and pipelines. The commodities handled include a variety of chemicals, crude oil, petroleum products, renewable fuels, asphalt, animal fats and oils, vegetable oils, molasses, and fertilizers. Customers who store products at these terminals include oil producers, chemical manufacturers, product manufacturers, food growers and producers, utilities, transportation companies, commodity brokers, government agencies, and the military.

Thank you for your consideration of the attached comments.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "R. Peter Weaver", is written over a light blue circular stamp.

R. Peter Weaver
Director of Regulatory Compliance and Safety

The responses presented below address specific questions posed by the Chemical Safety Board (CSB) and include additional comments by ILTA.

General Comments

ILTA believes that this rule should incorporate the current reporting mechanisms employed by CSB. At present, CSB relies on television, internet, and incident reports filed with the National Response Center (NRC), Occupational Safety & Health Administration (OSHA) work-related accident reports, and National Transportation Safety Board (NTSB) reports to track chemical accidents for identifying those appropriate for CSB on-site investigations.

Harmonize Existing Reporting Requirements

The benefits of a new reporting requirement should be weighed against the potential burden of duplicative reporting as well as the value added to existing response and investigation efforts. To minimize redundancy, any new requirements should be harmonized with existing regulations. Existing release reporting requirements under federal laws include, but are not limited to, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the Emergency Planning and Community Right-to-Know Act (EPCRA), the Occupational Safety and Health Act (OSH), the Clean Water Act, the Clean Air Act, and the Toxic Substances Control Act (TSCA). ILTA further recommends CSB coordinate with state and local agencies as these groups often have separate requirements for industry in addition to the federal requirements.

Options to Implement the Rule

The CSB has suggested four possible options for a rulemaking and has requested industry comment on the most appropriate and effective approach. ILTA strongly recommends Option 3, stated as follows:

Option 3, *CSB would continue to rely on existing sources to learn of chemical incidents, and would then follow up on certain incidents (e.g., those with the most serious consequences) to gather additional information that a reporting party would be required to complete and submit to CSB.*

ILTA supports the use of existing reporting channels, notably the NRC, in lieu of establishing a new and duplicative reporting requirement directly to CSB. Option 3 would promote the correction or improvement of deficiencies in data quality that, according to the ANPR, currently exist at the NRC. CSB would then remain well positioned to request additional information if necessary, consistent with CSB's current methods for conducting post-incident investigations.

Responses to Specific CSB Questions

ILTA is submitting comments to the following specific questions posed by CSB in the *Federal Register* notice:

Should initial reports be made to NRC or CSB?

As stated above, ILTA recommends that CSB continue to rely on existing reports from NRC. Any follow-up reports or requests for information from CSB should go directly to CSB as mentioned in the statute: “[r]eporting releases to the National Response Center, in lieu of the Board directly, shall satisfy such regulations [regulations to be developed by CSB].” (CAA Sec. 112(r)(6)(C)(iii))

ILTA also supports the use of other existing incident reports that are currently submitted to the U.S. Coast Guard, Federal Emergency Management Agency (FEMA), OSHA, the Environmental Protection Agency (EPA) and the Federal Bureau of Investigation (FBI), as well to the state and local authorities.

How soon after an accident should reporting occur?

In the event that CSB decides to proceed with an approach other than option 3, ILTA recommends that the reporting times align and match those of the other federal agencies (e.g. NRC, FEMA and OSHA). CSB’s goal, as discussed in the preamble, of deploying investigators to arrive on site within the first 24 to 48 hours can be achieved using the existing regulatory reporting time frames.

How might this reporting requirement best be tailored to avoid duplication with existing sources of information on chemical incidents, including federal, state, or local reporting requirements?

When an incident occurs, terminal operators are currently required to report to a number of entities, depending on the severity of the event. These entities include:

National Level

- EPA
- FBI
- FEMA
- NRC
- OSHA
- US Coast Guard

State Level

- State’s Emergency Management Office

Local Level

- Fire Department
- Police
- Hospitals
- Contractors
- Neighboring Businesses
- Community

The NRC, state, fire and other emergency responders have fifteen-minute reporting requirements as well as incident follow-up reports. ILTA recommends that CSB coordinate with these groups to gather information, rather than adding another agency to a long list.

Conclusion

ILTA recommends that any rule promulgated by CSB to meet its statutory requirement reflect the current process and not add layers that could detract from timely investigations. ILTA also supports collaboration between emergency responders and government agencies to improve the efficiency and value of the incident reports submitted by bulk liquid terminals.