	Fuels Safety	Ref. No.: FS-247-19 R1
	ADVISORY	Date: October 5, 2020

Subject: **Introduction of TSSA's Fuel Oil Distributor Audit Program**

Distribution: Posted on TSSA website and sent to all Licenced Fuel Oil Distributors

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TSSA is introducing a Fuel Oil Distributor Audit Program starting November 1, 2020 that will require distributors to demonstrate their compliance with the Fuel Oil regulation, O. Reg. 213/01. This new program was developed in response to a recommendation from the Auditor General of Ontario for TSSA to have greater oversight of the risks with fuel oil tanks as soon as possible.

Audit Parameters

The Fuel Oil regulation, O. Reg. 213/01, has six primary requirements that are a distributor's responsibilities. They are as follows:

1. Initial and Periodic Inspections
2. Underground Tank Registrations
3. Supply to a Compliant Site
4. Employees' Certification and Compliance
5. Incident Reporting
6. Identification, Action as Required and Reporting of non-compliances (unacceptable conditions)

Distributors are responsible for complying with the above six primary requirements. TSSA's audit will require the distributor to demonstrate compliance through their processes and records. See Appendix A for further detail.

Roll-Out – Implementation Plan

1. Communicate Plan to Licensed Fuel Oil Distributors – Completed November 2019
    a. Post an Advisory
    b. Communicate through Associations
    c. Direct mail-out of this Advisory to Licence Holders
2. Start Audit Program November 1, 2020 and complete within 12-18 months (TSSA prioritize audits for higher risk distributors first based on TSSA's best available data) Start date was delayed from April 1, 2020 to November 1, 2020 due to Covid-19

TSSA will be charging its normal inspection hourly rate for the audit.

Appendix A – Specifics of the Fuel Oil Distributor Audit Program:

Under O. Reg. 213/01, Fuel Oil, distributors have specific responsibilities that include:

1) Distributor Initial and Periodic Inspections

Supply to containers and tank systems
7. (1) No distributor shall supply fuel oil to a container or tank system that is connected to an appliance or work unless the distributor is
satisfied that the installation and use of the appliance or work comply with this Regulation and,
(a) unless the distributor has inspected the appliance or work at least once within the previous 10 years; or
(b) unless the distributor has inspected the appliance or work in accordance with a quality assurance inspection program.
(2) A distributor shall prepare a report on each inspection made under subsection (1) and shall retain the report until the next inspection and report are completed. O. Reg. 213/01, s. 7 (2).
(3) An inspection shall be carried out by a person who is the holder of a certificate for that purpose. O. Reg. 213/01, s. 7 (3).

An examination under subsection shall include the examination of all appliances installed at the time of occupation of the premises

2) Underground Tank Registrations

Supply to containers and tank systems
7.(4) No person shall supply fuel oil to an underground tank unless the underground tank is registered.

3) Supply of Fuel to a Compliant Site

Supply of fuel
20. No person shall supply fuel oil to or use an appliance, container, equipment, tank system or other thing employed in the handling or use of fuel oil or used oil unless it complies with this Regulation.

4) Employees comply with regulation

Duty of employer
5. (1) Every person who installs, removes, repairs, alters or services appliances or works shall instruct the person's employees to comply with the Act and this Regulation.
(2) Every person who installs, removes, repairs, alters or services appliances or works shall take every precaution that is reasonable in the
circumstances to ensure that the person's employees comply with the Act and this Regulation.

5) Requirement to report incidents

Dangerous occurrences
21. (1) Where it appears that carbon monoxide poisoning, asphyxiation, accidental release, leak, explosion or fire has occurred because of the use, storage or handling of fuel oil, a certificate holder, licence holder, operator, contractor or distributor shall forthwith notify an inspector of the occurrence by telephone, fax or any other form of electronic transmission, and a registered contractor or licence holder shall have in place procedures for such notification.
(2) No person shall interfere with or disturb any wreckage, article or thing at the scene of an occurrence that is connected with it except in the interest of public safety, saving life, relieving human suffering, continuity of service or preservation of property.
(3) Where it is permitted to interfere with or disturb wreckage, an article or a thing under subsection (2), no person shall carry away or destroy any wreckage, article or thing unless an inspector gives permission to do so.

6) Requirement to report and handle non-compliances

22. (1) In sections 23, 24, 25 and 26,
"unacceptable condition" means,
(a) with respect to an appliance, container or work, that it is being used for a purpose other than that for which it was approved,
(b) with respect to an appliance or work, that a device, attachment, alteration or deterioration of it is likely to impair its safe operation,
(c) with respect to an appliance or work, that the conditions of the tank, piping, tubing or hoses, the venting of products of combustion, the supply of air for combustion or the clearance from adjacent, combustible matter is likely, in the director's opinion, to impair its safe
operation, or does not conform to this Regulation, or
(d) with respect to equipment, that the condition of its state of repair, its mode of operation or its operating environment is likely to impair its safe operation or does not meet the requirements of this Regulation.

(2) No person shall remove a notice that has been affixed to an appliance or system under section 23, 24, 25 or 26 unless the person is a holder of a certificate for that purpose.

Unacceptable condition - immediate hazard
23. (1) A distributor who is informed or who finds, during delivery operations or during an inspection, that the condition of a facility, appliance or tank system constitutes an immediate hazard shall,
(a) immediately cease supplying fuel oil to the facility, appliance or tank system;
(b) immediately take such steps as are reasonable in the circumstances to shut off the supply of fuel oil to the facility, appliance or tank system;
(c) promptly give written notice of the condition to its operator stating that it is not to be used until the condition is corrected and a distributor has determined on reinspection that the condition has been corrected;
(d) affix the notice under clause (c) to the facility, appliance or tank system; and
(e) forward a copy of the notice to the designated administrative authority.
(2) If the notice affixed under clause (1) (d) is subsequently removed, the person removing it shall endorse his or her certificate number, name and address on the notice and send it by prepaid registered mail or deliver it to the distributor.
(3) No operator to whom a notice has been given under subsection (1) shall use or permit the use of the appliance or tank system referred to in the notice until the condition set out in the notice has been corrected and a person holding a certificate for that purpose has determined on reinspection that the hazardous condition no longer exists.
(4) A distributor to whom a notice has been given under subsection (1) shall not supply fuel oil to the appliance or tank system referred to in the notice unless written evidence, containing the date the hazardous condition was corrected, together with the name and certificate number of the person who corrected the condition, is received by the distributor.

Unacceptable condition - no immediate hazard
24. (1) A distributor who is informed or who finds, during delivery operations or during an inspection, that an appliance or tank system is, in the opinion of the distributor, in an unacceptable condition but that an immediate hazard does not exist, shall,
(a) give to the operator a description of the condition;
(b) promptly provide a notice to the operator indicating that the distributor will cease supplying fuel oil to the appliance or tank system if the condition is not corrected within the period of time specified in the notice;
(c) affix the notice under clause (b) to the appliance or tank system; and
(d) forward a copy of the notice to the designated administrative authority.
(2) The period of time set out in the notice under clause (1) (b) shall not exceed 90 days.
(3) If the notice affixed under clause (1) (b) is subsequently removed, the person removing it shall endorse his or her certificate number, name and address on the notice and send it by prepaid registered mail or deliver it to the distributor.
(4) No operator to whom a statement has been given under subsection (1) shall use or permit the use of the appliance or tank system after the expiry of the period of time specified in the notice for correcting the condition unless the condition has been corrected.
(5) A distributor who gives a notice under subsection (1) shall cease supplying fuel oil to the appliance or tank system if the unacceptable
condition described in the notice is not corrected within the period of time specified in the notice.
(6) A distributor to whom a notice is given under subsection (1) shall not supply fuel oil to the appliance or tank system after the period of time referred to in the notice, unless written evidence, containing the date the hazardous condition was corrected, together with the name and certificate number of the person who corrected the condition, is received by the distributor.

In the audit, these six requirements for the distributor will be confirmed by a TSSA Inspector as follows:

Item 1: Initial and Periodic Inspections

- There should be a process with records that it is being done
- Specifically demonstrate:
    - No initial fuel supply without an inspection
    - No continued fuel supply without an inspection beyond 10 years or in accordance with a quality assurance inspection program
- For those distributors that contract out this inspection requirement, they should be able to demonstrate that the contractor is registered and the contractor's persons doing the inspections hold the appropriate valid certification. This should be checked annually as registrations renew annually. Because one cannot outsource responsibilities, and this is a specific fuel oil distributor responsibility, TSSA will also expect some process to check that the inspection is acceptable such as the distributor requiring their hired contractor(s) to have an inspection validation program. If there is no process to verify the inspections, TSSA will do a field verification.
- For those distributors that conduct their own inspections, they should ensure that their people hold valid certifications and that they have a process to check that the inspections are acceptable such as an inspection validation program.

Item 2: Underground Tank Registrations

- There should be a process with records that it is being done
- Specifically demonstrate:
    - Identify customers with underground tanks and that the tanks are registered

Item 3: Supply to a Compliant Site

- There should be a process with records that it is being done (reasonably addressed by 1, 4 and 6)

Item 4: Employees' Certification and Compliance

- There should be a validation program to check that their employees' work is compliant including drivers
- Specifically demonstrate through records:
    - All drivers identify obvious issues (i.e. leaks, tank not supported properly, etc.)
    - Employees that provide fuels services hold the appropriate certification and that is checked annually
    - All certificate holders' work is checked for compliance with the adopted code

Item 5: Incident Reporting

- There should be a process with records that it is being done
- Specifically demonstrate:
    - Incidents have been reported to TSSA's Customer Contact Centre (formerly the Spills Action Centre - SAC) at 1-877-682-8772. No one has interfered with or disturbed any wreckage, article or thing at the scene of an occurrence that is connected with it except in the interest of public safety, saving life, relieving human suffering, continuity of service or preservation of property.

- Where it has been permitted to interfere with or disturb wreckage, an article or a thing, no one has carried away or destroyed any wreckage, article or thing unless an inspector gives permission to do so.

Item 6: Identification, Action as Required and Reporting of non-compliances

- There should be a process with records that it is being done
- TSSA will specifically ask for records/identification of fuel oil tank non-compliances
- Specifically demonstrate:
  - Fuel is turned off and supply discontinued for immediate hazards
  - Leaking tanks are immediately dealt with as an immediate hazard
  - Fuel is not supplied after time to comply has expired for non-immediate hazards
  - Notice has been provided to the owner/operator
  - Fuel is only supplied when an appropriate certificate holder has cleared the non-compliance

If orders are issued for non-compliance with items 1-6, for the initial audit, TSSA will typically allow up-to 90 days for the distributor to develop and implement procedures. If orders are issued, the inspector will conduct a follow-up inspection.