

Original: 2532

PETROLEUM PRODUCTS CORP.

Office of the Chairman

May 12, 2006

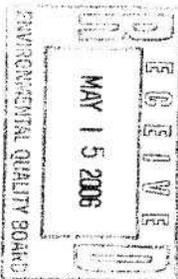
Environmental Quality Board
P.O. Box 8477
Harrisburg, PA 17105-8477

Dear Environmental Quality Board,

I'm writing to comment on the proposed rulemaking amending Chapter 245, relating to administration of the storage tank and spill prevention program, as published in the Pennsylvania Bulletin on April 22, 2006.

The proposal adds comprehensive tank registration provisions at 245.41- 245.43 and ties the storage tank registration application process to the operating permit process at 245.203 and 245.222. The proposal also provides at 245.451, for underground storage tanks in a temporary closure status to be emptied, taken out-of-service and reported to the Department on an amended registration form. This later proposal brings all underground and aboveground storage tanks to a similar out-of-service status, which must be reported to the Department on an amended registration form and which may also affect the permitting status of these tanks. My comments and recommendations on these specific provisions and related sections of the technical regulations at Subchapters E, F and G are as follows:

- Since all underground storage tanks (USTs) and aboveground storage tanks (ASTs) put into temporary closure will no longer be in an operating status, proposed provisions at 245.41- 245.42, 245.203 and 245.222 should be changed to address Department withdrawal of the out-of-service tank operating permits.
- Temporary closure tanks addressed at 245.451(e) (USTs), 245.561- 245.562 (large ASTs), and 245.614 (small ASTs) should be precluded from operation inspections or service inspections under 245.411, 245.552, 245.553 and 245.616 respectively or contain provisions for the Department to waive inspections for tanks in a non-operating status, or when permits are withheld or withdrawn.
- Provisions may also be added, at the above referenced sections, for the Department to require inspections of tanks prior to permitting, when changing a tank from a non-operating status (temporary closure) to an operating status (currently in-use or active service).

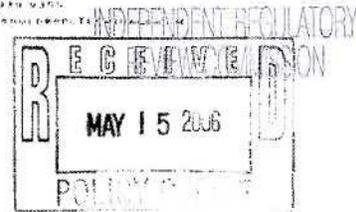


Additionally, while a large aboveground tank is in active service, API 653 out-of-service inspections are performed and indicate when the next API 653 out-of-service inspections need to be performed. If a tank is no longer necessary at a facility, it can be taken off-line, become inactive, and be registered as TOS with the Department. There is a five-year window that the tank can remain TOS. The problem is that within that five-year window, previous testing may require that the TOS tank have a full out-of-service inspection from previous API 653 testing, which was conducted while the tank was in active service. Given that the tank may or may not ever be placed back into active service, the requiring of a costly full out-of-service inspection while a tank remains inactive and registered as TOS with the Department, doesn't make sense. Unnecessary costs and time would be expended by both the Department and the tank owner as full blown API 653 testing and reporting would need to take place, be submitted, reviewed, and repair recommendations be complied with - for a tank that isn't being used and may not ever be used in the future.

The current regulations (245.562 and 245.614) allow for an aboveground storage tank to be TOS for five years before it is required to be registered as Permanently Closed or re-activated. Given the ever-changing regulatory nature of new products continually needing to be handled at bulk storage facilities, distributors and at refineries (ethanol, ultra low-sulfur diesel, biodiesel, extended or shortened heating oil use-cycles, etc.) the future is unclear. A facility or tank that may not be needed today may be needed tomorrow. Only allowing a tank to be TOS for five years and then requiring it to be permanently closed creates an incentive

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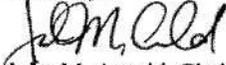


for the removal of vital distribution infrastructure that may be needed in the future. I propose that the five-year window be removed as a limitation for a tank to remain TOS. If the Department is concerned about the tank owner maintaining the condition of the tank for longer than five years while a tank is TOS, the in-service inspections could be required to be performed to retain the tank in TOS status beyond five years. However, before a tank could be placed back into service and registered as such with PADEP, full blown API 653 out-of-service inspection could then be required to be performed and any tank upgrades, retrofitting or repairs completed before the tank is re-permitted and operational.

Lastly, I noted that the proposed revisions to section 245.411(d) allows the Department to require UST owners and operators to participate in release detection or operator training courses when related violations are documented through an inspection. This is a good idea, but it does not fully address UST operator training requirements. The underground storage tank compliance provisions in the Federal Energy Policy Act of 2005, at Title 15, Subtitle B, require the establishment of operator training programs for all UST operators, including (1) persons having primary responsibility for on-site operation and maintenance of USTs, (2) persons having daily on-site responsibility for the operation and maintenance of USTs, and (3) daily, on-site employees having primary responsibility for addressing emergencies presented by a release or spill from an UST system. These provisions should be addressed in the rulemaking for all USTs owners and operators under the General Operating Requirements contained in sections 245.441– 245.435.

Thank you for your consideration of my requests.

Sincerely,



John M. Arnold, Chairman
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P.O. Box 2621
Harrisburg, PA 17105

cc: Charlie Swokel, PA DEP, Chief, Storage Tanks Division
Kurt Klapkowski, PA DEP, Program Regulatory Counsel