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INDEPENDENT REGULATORY  
REVIEW COMMISSION



Sunoco, Inc.  
1735 Market Street LL  
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June 29, 2006

Environmental Quality Board  
Rachel Carson State Office Building  
400 Market St. - 15<sup>th</sup> floor  
Harrisburg, PA 17101-2301

**RE: Comments on April 22, 2006 Proposed Rulemaking 25 PA Code Chapter 245**

Dear Environmental Quality Board,

The following are detailed comments prepared by Sunoco, Inc. ("Sunoco") on the Proposed Rulemakings on the Administration of the Storage Tank and Spill Prevention Act which were published in the Pennsylvania Bulletin on April 22, 2006. Also enclosed is a one page summary for distribution to each member of the Environmental Quality Board.

Sunoco, Inc, headquartered in Philadelphia, PA, is a leading manufacturer and marketer of petroleum products and petrochemicals, processing over 900,000 barrels per day of crude oil and selling approximately five billion pounds of petrochemicals. Sunoco operates two refineries and two chemical facilities in Pennsylvania. In addition, Sunoco markets gasoline under the Sunoco brand at more than 4,800 service stations stretching from Maine to Florida. Sunoco currently has over 3,000 employees in Pennsylvania.

Sunoco has reviewed the proposed regulation changes and has the following comments:

General comment: The Pennsylvania Department of Environmental Protection (PADEP) should consider providing a period of six (6) months from the time the regulations are adopted to the time when they are effective to allow time for affected parties to set up policies and procedures to comply with the new regulations. These regulations, as proposed, require significant changes to standards for new equipment that is currently being designed and installed. A six month phase-in will allow for changes in design and equipment without holding up current capital improvement projects.

***Subchapter A***

**§245.1 – Definition of a regulated substance.** The amended definition of "regulated substance" in 25 Pa. Code § 245.1 incorporates by reference non-petroleum chemical substances listed in 34 Pa. Code Chapter 323 ("Chapter 323") as environmental hazards.

This amendment adds over 400 chemicals to the list of regulated substances. Although these substances may have various hazards associated with them, they should be individually

evaluated to determine if they warrant regulation under the storage tank regulations. In addition, regulated substances should only include materials that are liquids at standard conditions of temperature and pressure (60 degrees F and 14.7 pounds per square inch absolute). The term "gaseous" substances in the regulated substance definitions "(i)A" and "(i)(C)(III)" should be deleted from the definition since these types of materials are not stored in typical atmospheric storage tanks but are stored in pressurized vessels or tanks.

The proposed revisions to regulated substance (i)(C)(III) states that if any of the 34 PA Code Chapter 323 environmental hazardous substances do not have a CERCLA reportable quantity, then a one-pound reportable quantity is assigned by default. This value is extremely conservative and is unjustified. Numerous chemical substances and wastes have been extensively evaluated under the federal CERCLA and EPCRA programs resulting in the development of reportable quantities based on risk. Most of these reportable quantities are significantly above a one pound limit. To arbitrarily set a one pound requirement, without any risk based analysis or evaluation is unjustified and unduly burdensome.

If the EQB does move forward with incorporating the list of environmentally hazardous substances in Chapter 323, Sunoco supports the temporary exclusion and phase-in period for newly regulated tanks provided for in 25 Pa. Code §§ 245.403, .505 and .605.

**§245.41 (f) (4) – Notification of change in substance stored in the tank** – This requirement should specifically exclude routine switching of petroleum products that are very similar in composition but have different specific product names. For example, products such as kerosene and diesel fuels are very similar products and storage tanks can be switched back and forth between these products depending on inventories and supply demands. Sunoco has concerns that without the specific exclusion, the requirements for notification are too restrictive and will cause excessive and frequent notification requirements for minor changes in tank products. Notification of changes in substances stored should only apply when there is a significant change, such as a change from a petroleum product to a hazardous substance, and not when a change is only in the type of petroleum product (e.g., from diesel to kerosene).

### ***Subchapter E***

**§245.411 (b) (2) Inspection Frequency** – Although Sunoco agrees that while a delayed inspection program for new construction makes sense, this is not appropriate for facilities that have a change in ownership or occupancy. If the facility changes ownership or occupancy, the inspection process should be allowed to take place prior to the first six (6) months of operations to coincide with initial ownership transfer inspections.

**§245.421 (b) (2) (iii) (B) records retention** – The records required for this section are not always available for existing facilities when a change in ownership occurs. For existing tank systems, especially those acquired through an acquisition, some of the records requirements may not be obtainable and are not always provided during the acquisition. Examples of some records that may not be available or provided during a facility transfer are: tank design and construction documentation, proof that field-installed cathodic protection systems or impressed current

systems were designed by a corrosion expert, and proof that a certified installer installed the tank. It is suggested that these requirements only apply to new installations, or at a minimum, to existing systems installed after the effective date of the regulations.

**§245.421 (b) (2) Replacement of UST Piping-**

The EQB's proposed amendment to §245.421(b)(2) would require upgrading of all piping associated with a UST system to satisfy secondary containment standards whenever more than 30% of the system piping is going to be replaced. Sunoco believes that the proposal should allow for an alternative compliance method based on evidence of piping manufacturer or installer financial responsibility. Provision of this alternative compliance method would be consistent with §1530 of the Energy Policy Act of 2005, which amends the federal UST program at subchapter IX of the Solid Waste Disposal Act, and the draft U.S. Environmental Protection Agency ("EPA") guidance document issued to implement this amendment entitled "Grant Guidelines to States for Implementing the Financial Responsibility and Certification Provision of the Energy Policy Act of 2005," EPA-510-D-06-002 (May 2006). Proceeding consistent with the federal approach on this issue should be sufficiently protective of possible releases from existing UST piping, while at the same time allowing the regulated community flexibility in applying resources to comply with the full range of storage tank program requirements. If the EQB still feels a percentage of piping replacement is needed to require full upgrade of piping, the percentage should be increased to whenever more than 50% of the system piping is replaced.

Also, consistent with federal requirements for authorized state UST programs, Sunoco suggests that the EQB consider treating the substitution of existing UST piping with identical materials not to constitute piping "replacement" triggering the need for upgrading to secondary containment.

In addition, in §245.412 (b) (2) (ii) (A), it has been demonstrated within the industry that, especially for risers, wrapping of piping is an effective method of corrosion protection. Furthermore, if the EQB feels that wrapping alone is not sufficient, this section should clarify that wrapping used along with appropriate coatings does meet the cathodic protection requirement.

**§245.422 (e) Release Detection Equipment** - The requirement for an electronic line leak detector is too restrictive and there are no other options. Clarification as to if these regulations are application to single-wall and double-wall piping is requested. Are mechanical leak detectors acceptable with double-walled piping? Are the electronic leak detectors only applicable to single-walled piping?

**§245.432 (e) Operation and maintenance including corrosion protection** – Sunoco believes this section is not clear and methods to check for a leak in the interstitial space of secondary piping is not currently available.

**§245.435 (b)(2) (vii) Containment sumps and dispenser pans records** – The proposed requirement to permanently maintain all tightness test records of containment sumps and

dispenser pans is excessive. Records should be required for the most recent liquid tight test. Keeping records of all liquid tight testing throughout the life of a tank system would be impracticable and difficult to maintain.

**§245.441 (e) General Requirements for existing tank systems** - Sunoco believes that this section is not clear and clarification on how to check for a leak in the interstitial space of secondary piping is needed.

**§245.442 (a) Requirements for petroleum Underground Tank Systems**– Sunoco also believes that this section is not clear and clarification is needed on how to check for a leak in the interstitial space of secondary piping and how these regulations apply to single-walled vs double-walled piping.

**§245.451 (c) Temporary Closure** – The regulations should be changed to allow owners and operators 30 days to empty a tank being placed temporarily out-of-service instead of immediately emptying the tank as is currently in the proposed regulations is technically infeasible.

***Subchapter F***

**§245.554 (a) – AST Installation and modification inspections** – The requirement to keep the installation inspection report for the operational life of the tank is not needed once a more recent out-of service inspection report is available. As a result, this requirement should be modified to indicate that the installation inspection report should be kept until it is replaced with the report from the next out-of-service inspection.

Please contact me at 610-859-3493 or [jlceleste@sunoco.com](mailto:jlceleste@sunoco.com) if you have any questions on these comments.

Sincerely,  
Sunoco, Inc.

Jennifer Celeste  
Sr. Environmental Engineer  
Environmental Services

(enclosure)

## One-Page Summary: Comments on April 22, 2006 Proposed Rulemaking 25 PA Code Chapter 245 by Sunoco Inc.

**General comment** – Allow six (6) months for affected parties to prepare policies and procedures to comply with the new regulations.

**§245.1 Definition of a regulated substance** – Concerns over the amount of new substances the regulations would cover, as well as the one-pound limit for those substances without a CERCLA reportable limit.

**§245.41 (f) (4) Notification of change in substance stored in the tank** – Propose the changes in notification should only apply when the substance stored is changed from a petroleum product to a hazardous substance.

**§245.411 (b) (2) Inspection Frequency** - Suggest that facilities which have transferred ownership be allowed to conduct their inspection prior to the six month mark so that it can coordinate with initial purchase inspections.

**§245.421 (b) (2) (iii) (B) records retention** – Suggest that some flexibility be added to this portion of the regulations to account for records that are not provided during an acquisition.

**§245.421 (b) (2) Replacement of UST Piping** - Propose the 30% replacement cutoff be raised to 50% and that the substitution of identical materials not be considered replacement.

**§245.421 (b) (2) (ii) (A) Corrosion Protection of Piping** – It has been documented that wrapping piping is an effective form of corrosion protection. If the PADEP will not accept this then guidance should be provided for an appropriate method.

**§245.422 (e) Release Detection Equipment** – The requirement for electronic line leak detection is too restrictive and clarification is needed on the applicability on single verses double-walled piping.

**§245.432 (e) Operation and maintenance including corrosion, §245.441 (e) General Requirements for existing tank systems, and §245.442 (a) Requirements for petroleum Underground Tank Systems**

Suggest that clarification for the above-mentioned regulation changes be provided with respect to leak detection for secondary containment lines and applicability of single verses double-walled lines.

**§245.435 (b)(2) (vii) Containment sumps and dispenser pans records** – Suggest that only the most recent liquid tight inspection records be maintained.

**§245.451 (c) Temporary Closure** – Suggest that the State retain the 30-day timeframe to empty a tank when placing it temporarily out-of-service.

**§245.554 (a) AST Installation and modification inspections** – Propose that the initial tank inspection report does not need to be kept on file once a subsequent out-of-service inspection has been conducted.

