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Subject: Comments on Proposed Amendments to the Storage Tank & Spill Prevention Act Regulations



Pa Storage Tank
Rule Amendment...

Attached below are FirstEnergy's comments on the Environmental Quality Board's proposed amendments to 25 Pa. Code Chapter 245 relating to the administration of the storage tank and spill prevention program. These comments are being filed for consideration in the final-form rulemaking and inclusion in the official record.

If you have any questions regarding these comments, please call me at the number below.

Respectfully,
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(See attached file: Pa Storage Tank Rule Amendment comments.doc)

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INDEPENDENT REGULATORY
REVIEW COMMISSION

FirstEnergy comments on proposed amendments to the Pennsylvania Department of Environmental Protection's Storage Tank and Spill Prevention Act Regulations [25 PA. Code CH 245]

FirstEnergy respectfully submits the following comments on the above referenced proposed rule amendments. We appreciate the opportunity to comment on the proposed amendments, as these amendments will have an impact on our ability to operate aboveground and underground storage tanks in Pennsylvania. As such, the proposed rule amendments will have an impact on the ability of FirstEnergy to provide reliable and affordability priced electricity to our customers.

25 Pa Code § 245.1. Definitions:

Consumptive use - FirstEnergy agrees that very large aboveground storage tanks storing heating oil for consumption on the premises pose a substantial risk and should be regulated. However, these tanks are currently regulated under 40 CFR 112.8 (c) Bulk storage containers requirements. The proposed amendment to the definition of consumptive use to exclude tanks over 30,000 gallons adds no additional benefit and is unnecessary to adequately protect human health and the environment. Therefore, the proposed change in the definition should be deleted to avoid dual regulation. In addition, the 30,000-gallon capacity for inclusion in the definition of consumptive use is arbitrary and capricious. If the proposed change to the definition is not deleted it should at a minimum be revised to include aboveground storage tanks of 50,000 gallons or less capacity.

Regulated substance (C)(III) – The proposed amendment to include by reference the non-petroleum substances listed in 34 Pa. Code Chapter 323 should be deleted. The proposed amendment would arbitrarily add over 400 chemicals to the list of regulated substances and would adversely impact the regulated community. The regulation of any additional non-petroleum substance should be on a case by case basis. The Environmental Quality Board should republish the proposal with a specific list of substances of concern.

25 Pa Code § 245.422(e)(2) and (3), and § 245.445(1) – FirstEnergy agrees with the proposed requirement to install line leak detection systems with automatic shut-off devices on tank systems installed after the effective date of the adoption of the proposed amendments. However, tank systems existing prior to the effective date of the adoption of the amendments should not be required to upgrade their systems currently installed with equipment that alarms or restricts product flow. The equipment currently required to be installed on existing equipment is effective in the prevention of releases, consistent with federal environmental law, and is protective of human health and the environment. Additionally, the type of piping 245.422(e)(2) and (3) apply to is not entirely clear. If these paragraphs remain, it should be made clear that the requirements only apply to pressure piping.

25 Pa Code § 245.432(g) - The proposed amendment should be revised to exclude fiberglass reinforced plastic (FRP) tanks. FRP tanks are not subject to internal corrosion from contact with water and the subject rules should be limited to protecting human health and the environment.

25 Pa Code § 245.542(d)(2)(ii) and § 245.561(3) – The references to DEP technical guidance documents should be deleted from the proposed amended rule. Any documents that have the force of regulation must first be subjected to due process of law and appropriately proceed through the established regulatory review process.