

Tate, Michele

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From: jspeicher@firstenergycorp.com
Sent: Wednesday, April 08, 2009 3:09 PM
To: EP, RegComments
Cc: jspeicher@firstenergycorp.com; reesek@firstenergycorp.com; horvathm@firstenergycorp.com
Subject: Proposed Rulemaking: 25 PA. Code CH. 245 Administration of the Storage Tank and Spill Prevention Program, Dated March 14, 2009; Comments Provided by FirstEnergy Corp.

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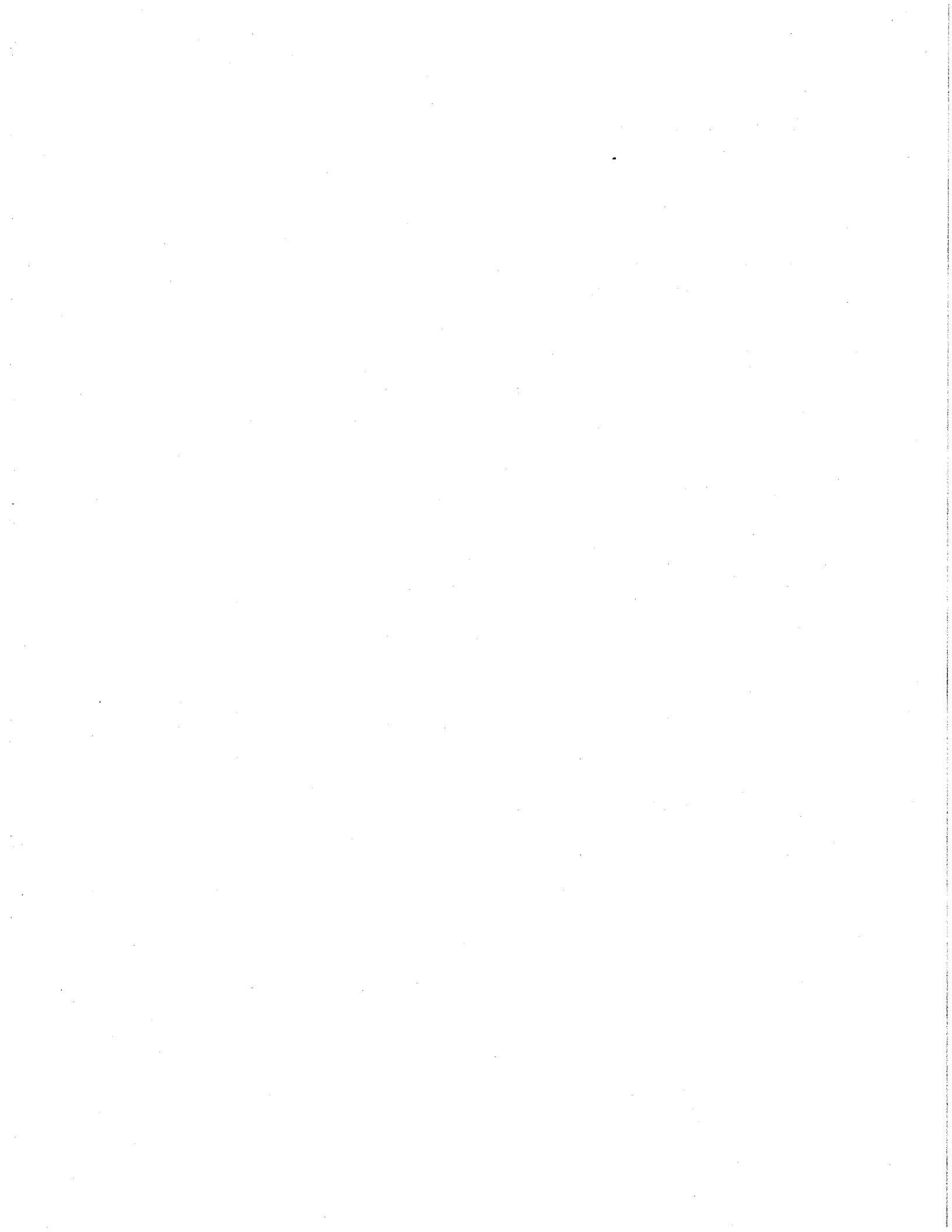
INDEPENDENT REGULATORY
REVIEW COMMISSION

To whom it may concern,

Please, find FirstEnergy Corp's comments on the subject rulemaking attached.

Thank You,
Jason A. Speicher
Adv. Environmental Scientist
FirstEnergy Corp.
P.O. Box 16001
Reading, PA 19612
Cell Phone: 610-223-6130
Fax: 610-939-8552
Phone: 610-921-6935

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April 8, 2009

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

Re: Comments on Behalf of FirstEnergy Corporation and its Subsidiaries
Proposed Rulemaking – Amendments to 25 PA. Code CH. 245
Administration of the Storage Tank and Spill Prevention Program
Underground Storage Tank Operator Training Requirements

Members of Environmental Quality Board:

FirstEnergy Corporation respectfully submits the following comments on the above referenced proposed rule. We appreciate the opportunity to comment on the proposed amendments, as these amendments will affect FirstEnergy's ability to provide reliable, affordable electric service to our Pennsylvania customers.

General Comments

1. We compliment the Department on moving forward with proposed rules to provide a regulatory framework for implementing Underground Storage Tank (UST) Operator Training in accordance with the Operator Training Provision included in the federal Energy Policy Act of 2005. The release of these proposed rules prior to the August 8, 2009 guideline provided by the USEPA, will allow our company added time to plan and budget for meeting the applicable training requirements for our employees involved in the operation of our underground storage tank systems.
2. Introduction of Rules, Background and Purpose, Compliance Costs. This section only discusses the potential costs that will be incurred by the applicable regulated community for the anticipated administrative cost of attending an operator training course. At a minimum, the Department should state that additional labor and travel costs will be incurred by the regulated community for sending employees to the required training for Class A and B operators. In addition, the Department has not taken into account the costs that will be incurred by the regulated community to train Class C operators. In the case of our company, we have over 30 locations across the State of Pennsylvania that has regulated underground storage tanks. Each location will have one or more employees that will require Class C operator training. Therefore, we will incur additional labor and travel costs to provide on-site training at each location, or if we choose to utilize a computer based training program, we will incur the costs to develop and maintain the program. The cost to develop similar types of computer based training programs has been several thousand to tens of thousands of dollars. Therefore, we recommend that the Department more appropriately address the likely costs that will be incurred by the regulated community by the implementation of these rules.
3. For purposes of clarity, the rules would be greatly improved by providing additional definitions that would be included in 245.2. For example, providing more specific definitions of "manned facilities" and "unmanned facilities" would provide companies with fleet operations better clarity in understanding how these rules apply or don't apply to them.


Specific Comments

1. Subsection 245.436(a)(3)(ii). Terminology used in the proposed rule has not been defined. As discussed in our general comments, the Department should provide clarity by defining the meaning of manned and unmanned facilities. *EPA's Grant Guidelines To States For Implementing The Operator Training Provision Of The Energy Policy Act Of 2005* states that unmanned facilities include emergency generators at telecommunication towers and card/lock access facilities. In addition, the Department should clarify what it means for a facility to be "in operation". We would recommend that Department carefully consider restating this wording to indicate that "in operation" is considered "in operation during normal operating business hours." As currently written, the regulated community could interpret that a manned facility means if anyone, including janitorial or security staff, is at a facility outside of normal business hours, that a Class C operator shall be onsite. In addition, companies could have intermittent or emergency operations (e.g., response to electrical outages) outside of normal business hours that could be considered to require that a Class C operator be onsite. Having a Class C operator onsite during these unscheduled and unplanned operations is overly burdensome, would delay our response to electrical outages and negatively affect customer reliability.
2. Subsection 245.436(a)(3)(iii). Please, clarify if a company has an established 24-hour emergency contact number (e.g., Environmental Hotline) as part of normal business activities, if posting a visible sign with this number will meet the intended requirement?
3. Subsection 245.436(b)(1), 2nd sentence. Since a Class A operator's designated job duties may not include the management of resources and personnel, especially the daily management of Class A operators, it is recommended that the language be broadened in this sentence to indicate that the Class A operator can advise appropriate management on procedures "...to achieve and maintain compliance with regulatory requirements."
4. Subsection 245.436(b)(1)(iii). We recommend that the Department consider revising this description of a Class A operator to state, "A Class A operator may prepare or review site drawings that indicate equipment locations...."
5. Subsection 245.436(d)(2). The requirement to train a new operator within 30 days of replacing a Class A or B operator should be waived if a company, or its subsidiaries, have more than one designated Class A or B operator (i.e., a backup operator) as the UST facility would still maintain a Class A and B operator as required. However, we agree that a new person should be trained within 30 days after assuming the responsibilities of a Class A or B operator.
6. Subsection 245.436(e)(1). The Department should recognize the potential difficulty in keeping a consistently current list of trained Class A, B, and C operators for a large company with many facilities containing regulated USTs across the State. While it could be more reasonable to keep a sustained list of Class A and B operators, or operators designated for all three categories, keeping a list of all the designated Class C operators current will be difficult with potential worker turnover. We recommend that the Department consider that if a company or entity has instituted a 24-hr environmental emergency contact number that this can be used in lieu of a contact list at each facility.
7. Subsection 245.436(e)(2). As with many other subsections of the Chapter 245 rules, it is recommended that this language be changed to indicate that copies of operator training certificates or the facility list of Class A, Class B, and Class C operators, shall be maintained "either onsite at the underground storage tank facility or at a readily available alternative site...**If records are maintained offsite, the records shall be easily obtained and provided for inspection or for review by the Department upon request.**" This language is consistent with *EPA's Grant Guidelines To States For Implementing The Operator Training Provision Of The Energy Policy Act Of 2005*.
8. Subsection 245.436(e)(3). Again, it is recommended that the Department consider that if a company has an established and posted a 24-hr environmental emergency contact number, which will allow for the

direct notification of a designated Class A and/or B operator, that this number can be used in lieu of posting the contact information for an operator/s at each facility.

If you have any questions regarding any of the comments FirstEnergy Corp. has submitted on the proposed rulemaking, please contact me at (610) 921-6935.

Sincerely,



Jason A. Speicher
Advanced Environmental Scientist
FirstEnergy Corp. Corporate Environmental Department

c: K.S. Reese (FirstEnergy Corp.)
M.L. Horvath (FirstEnergy Corp.)

