

Tate, Michele

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From: rjmay@aol.com
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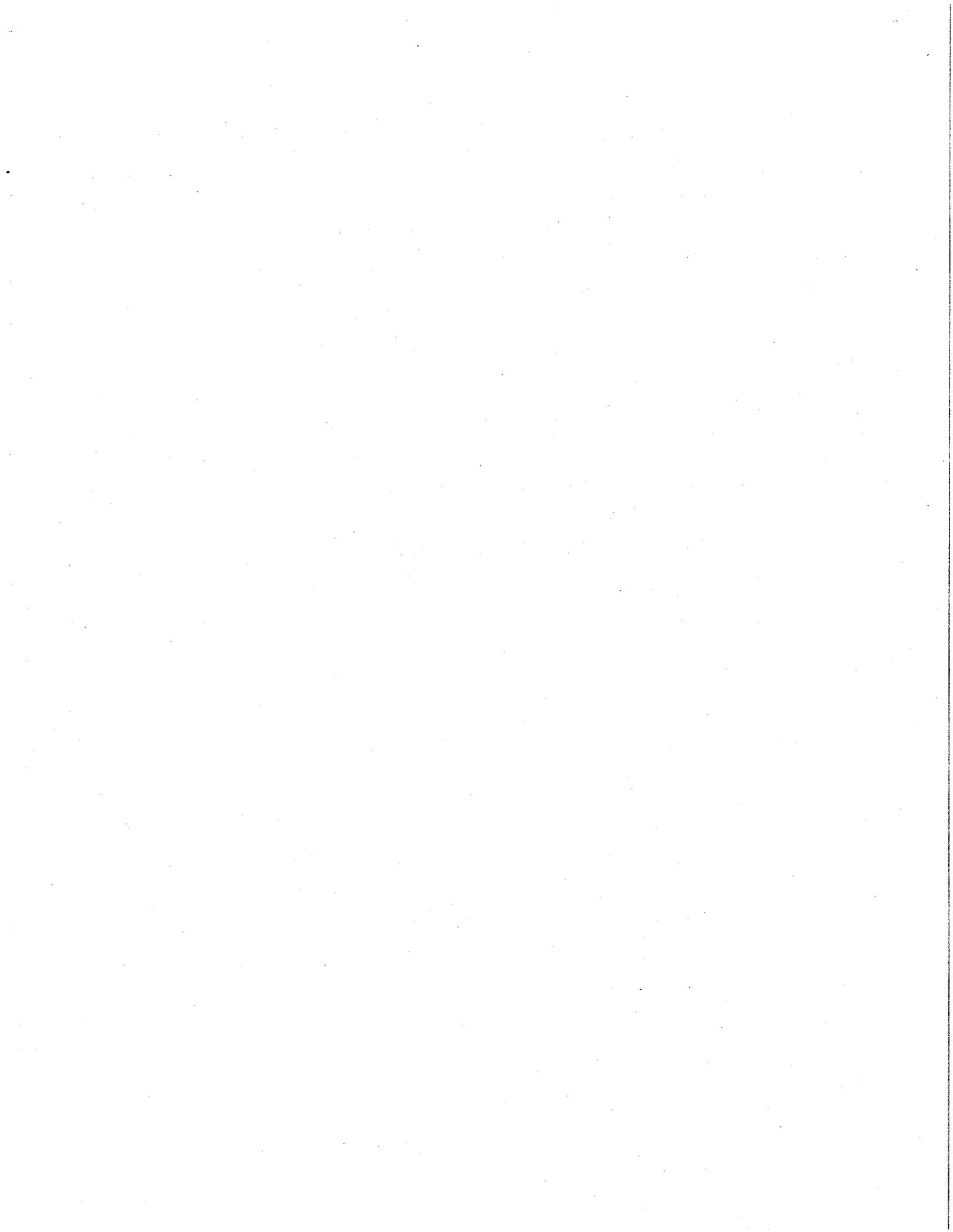
INDEPENDENT REGULATORY
REVIEW COMMISSION

Please submit my comments and summary.

Thanks

Bob May
3531 Jacksonwald Ave
Reading, PA 19606

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Comments on Proposed regulations 25 PA Code Chapter 245

(iv) Department-certified companies, installers and inspectors with underground storage tank UMX or IUM certification categories may perform Class A operator duties when employed or contracted by the tank owner to perform these functions.

(A) Department-certified installers, inspectors and companies identified in this subparagraph are excluded from required training under subsection (c), unless required by the Department to successfully complete mandatory operator training under § 245.411(d) (relating to inspection frequency).

(B) A certified IUM inspector may not perform a facility operation inspection for a facility where the inspector is also the designated Class A operator. (See § 245.106 (relating to conflict of interest).)

Public safety is potentially compromised having tank installers or inspectors acting as the educated tank operator. Having the tank installer and inspectors assuming the responsibilities of the onsite operator leads to a variety of issues where the public is not protected as compared to the operator onsite. Tank installers and inspectors acting as the educated tank operator instead of the tank operator erodes the benefits that the public was awarded with increased education. The public has the perception that the best control and release protection occurs at the tank location, not at the remote tank installer or inspector office or truck.

The intent of the regulations is for the tank operators to accept operational responsibility for tank operation. This is logical since many incidents can be controlled more effectively and efficiently at the tank location rather than a third party such as the tank installer or inspector. There are critical decisions that must be made in a timely manner that minimize tank releases and to change the decision making away from the source is detrimental to public safety.

The tank installer or inspector acting as the educated tank operator must involve a contract to provide services for a fee. If the fee is not paid according to terms of the contract, the services cease. The public has no protection because the contract between the tank installer or inspector and the untrained tank operator is not transparent, disclosed or reproducible in the regulations.

The tank installer or inspector can inform the uneducated tank owner that tank components need replaced, repaired, or maintained for proper tank release prevention. The uneducated tank owner can decline to replace, repair or maintain tank components for any number of reasons, and there is no accountability by regulations and the public is less protected.

The role of trained operator is to increase public safety by increased knowledge and awareness of tank operation. The objective for a tank installer or inspector to assume the role of the trained operator is to provide convenience and less responsibility to the uneducated tank operator. The benefit for the public for a tank installer or inspector to assume the role of the operator does not provide a measurable performance of the public safety as if the operator were trained. If the

objective of public safety cannot be measured by having the tank installer or operator assuming the role of a trained operator, then the regulations should clearly explain why and how the regulating agency will measure the process. The measurement process should also be justified by the agency resources being expended to accommodate untrained tank operators who want convenience at the expense and safety of the public. There's also the question of whether the agency oversight process should be used for conformance with a modified process for regulatory compliance through the creation of a second oversight process.

In summary, the role of tank installer and inspectors, and the role of tank operator should not be compromised by permitting a tank operator to contract with a tank installer or inspector to act as a trained operator. Tank installers and inspectors acting for the untrained operator does not pass a fairness or equity test with regards to the new responsibility a trained operator will be required to assume.

I appreciate the opportunity to comment on these important regulatory issues. Please feel free to contact me with any questions about these comments.

Robert J May PE

3531 Jacksonwald Ave

Reading PA 19606

PADEP Storage Tank Advisory Committee member, public member

. Summary of comments 25 PA Code Chapter 245 .

1. Public safety is potentially compromised having tank installers or inspectors acting as the educated tank operator. Having the tank installer and inspectors assuming the responsibilities of the onsite operator leads to a variety of issues where the public is not protected as compared to the operator onsite. Tank installers and inspectors acting as the educated tank operator instead of the tank operator erode the benefits that the public was awarded with increased education. The public has the perception that the best control and release protection occurs at the tank location, not at the remote tank installer or inspector office or truck.
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