

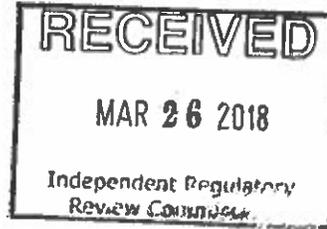


Associated Petroleum Industries of Pennsylvania

A Division of the Associated Petroleum Industries

March 26, 2018

3199



Secretary Patrick McDonnell
Chairman
Environmental Quality Board
P.O. Box 8477
Harrisburg, PA 17105-8477

Dear Secretary McDonnell:

The Associated Petroleum Industries of Pennsylvania (API-PA) is pleased to offer comments on the Proposed Rulemaking: Administration of the Storage Tank and Spill Prevention Program, in response to the Board's request for comments.

The Associated Petroleum Industries of Pennsylvania is a division of API, a national trade organization representing all facets of the oil and natural gas industry with over 625 members, leaders of a technology-driven industry that supplies most of America's energy, supports more than 9.8 million jobs and 8 percent of the U.S. economy, and, since 2000, has invested nearly \$2 trillion in U.S. capital projects to advance all forms of energy, including alternatives. The oil and natural gas industry is committed to an approach that promotes safety and environmental performance while securing the tremendous benefits of domestic energy production for our nation. Many of our members have a direct interest in this proposed rulemaking.

API is also a standard setting organization. For 89 years, API has led the development of petroleum and petrochemical equipment and operating standards. These standards represent the industry's collective wisdom on everything from drill bits to environmental protection, and embrace proven, sound, engineering and operating practices and safe, interchangeable equipment and materials for delivery of this important resource to our nation. API maintains more than 650 standards and recommended practices. Many of these are incorporated into state and federal regulations; and increasingly are being adopted by the International Organization for Standardization. API encourages and participates in the development of state regulations and other regulatory documents that are protective of public health and safety, the environment and the industry workforce.

We have distributed the proposed rulemaking to our member companies and offer the following comments as a result of input received:

Compatibility

The PADEP states the goal of revising 245.433 (c) is to be consistent with 40 CFR 280.32 (b)(1). It should be noted that the intent of 40 CFR 280.32 (b) is to require the UST owner / operator to demonstrate compatibility documentation only for those tanks containing greater than 10% ethanol and 20% biodiesel. The PADEP's proposed language in 245.433 (c) is overly broad and goes beyond the US EPA's intent. The US EPA's intent is clearly demonstrated in document EPA 510-K-15-002 dated November 2015 "UST System Compatibility with Biofuels". Specifically the PADEP proposes an owner to produce compatibility documentation as follows;

"(c) Upon Department request, an owner and operator of an underground storage tank system shall demonstrate compatibility of the underground storage tank system by using one or more of the following:"

Many of the UST systems date back over 30 years and have changed ownership on more than one occasion. Additionally these UST systems have contained low levels of ethanol for more than 13 years with few adverse consequences. Retroactively requiring documentation on these very old systems may be impossible in some instances. The PADEP will have little recourse but to require UST system decommissioning or other invasive and costly investigation to demonstrate compatibility.

It is recommended the PADEP revise the proposed language of 245.433 to limit the documentation requirement to petroleum fuel blends containing greater than 10% ethanol and 20% biodiesel and other non-petroleum regulated materials, as required by federal regulations.

Facility Inspections, 245.411 Inspection Frequency

245.411 (c) (2) allows the PADEP to request a third party inspection for any reason. Third party inspections are an expense to the tank owner and should be limited to circumstances where there is true justification such as a compliance due date or to verify resolution of a previously non-compliant inspection. It is proposed the language of 245.411(c)(2) be amended as follows:

An inspection in addition to those required in (b) and (c)(1) may be required by the Department when the prior inspection determined release detection, corrosion protection or operational violations occurred.

Recordkeeping – Electronic Documents, 245.435

Many UST owner operators have modernized many aspects of UST Compliance to electronic applications and dispatch systems. As a result physical paper documentation may not exist. This modernization simplifies archiving, accountability and distribution of information. Additionally these systems are a benefit to the environment as less paper is consumed. 245.435 should be revised to explicitly state that wherever recordkeeping is required in the regulations, electronic records and documentation are permitted.

Recordkeeping – Forms

Throughout the proposed regulations the PADEP requires specified forms. The regulated community understands the PADEP's intent to have uniform data however many operators and service providers have moved beyond manual form completion and instead rely upon computer applications for task such as inspections, testing etc. It is respectfully requested the PADEP explicitly state that form completion by electronic means including digital signatures be acceptable under the regulations. Moreover it is also recommended the PADEP revise the regulations to allow for flexibility in form type completion. For example if a UST operator had a preexisting inspection form that met the PADEP information requirements they could present that to PADEP for review and approval rather than have to revamp a preexisting program at great expense.

Methods of Release Detection

The inclusion of language in 245.444 (9) to allow for "other methods" of leak detection allows flexibility for future technology to be implemented. It is recommended the section be revised to define structure as follows:

- 1) Include a defined protocol for alternate method proposal
- 2) Mandate a timeline that the PADEP has to approve or deny the alternate method
- 3) If denied, require the PADEP to provide a technical argument for its denial
- 4) Provide for an appeal program if the proposer of the alternate method would like to challenge the PADEP's decision.

Piping Sump Testing and Under Dispenser Containment Testing

The proposed regulations should be amended to allow UST owner and service providers to request alternate sump testing methods other than those presently prescribed. The alternate method would be subject to PADEP or US EPA approval. As the sump testing requirements of

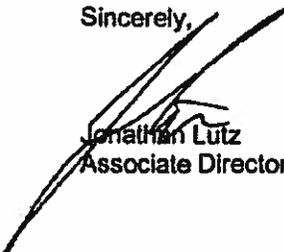
40 CFR 280 continue to evolve, limitations to codes of practice such as RP 1200 are being realized as these standards cannot contemplate all sump designs UST system layouts or alternative technologies.

Both the PADEP and the regulated community could realize great benefit if some flexibility is built into this regulatory requirement. If included this provision should include a defined application and review process as follows:

- 1) include a defined protocol for alternate method proposal
- 2) Mandate a timeline that the PADEP has to approve or deny the alternate method
- 3) If denied, require the PADEP to provide a technical argument for its denial
- 4) Provide for an appeal program if the proposer of the alternate method would like to challenge the PADEP's decision

Thank you for the opportunity to offer comments on this proposed rulemaking. If you have any questions, or if additional information is needed regarding our comments, please do not hesitate to contact me.

Sincerely,



Jonathan Lutz
Associate Director