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Kathy Cooper

From: ecomment@pa.gov
Sent: Monday, March 26, 2018 4:35 PM
To: Environment-Committee@pasenate.com; IRRRC; eregop@pahousegop.com; environmentalcommittee@pahouse.net; regcomments@pa.gov; apankake@pasen.gov
Cc: c-jflanaga@pa.gov
Subject: Comment received - Proposed Rulemaking: Administration of the Storage Tank and Spill Prevention Program

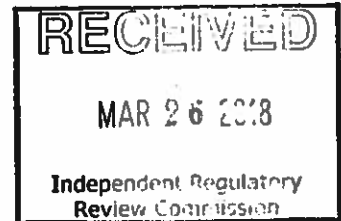


Re: eComment System

The Department of Environmental Protection has received the following comments on Proposed Rulemaking: Administration of the Storage Tank and Spill Prevention Program.

Commenter Information:

Karen S. Reese
First Energy (reesek@firstenergycorp.com)
76 South Main Street
Akron, OH 44308 US



Comments entered:

To Whom It May Concern,

Attached are FirstEnergy's comments on the subject proposed rules. We appreciate the opportunity to provide comments as the amendments will affect FirstEnergy's ability to provide, reliable, affordable electric service to our customers.

Karen Reese
76 South Main Street
Akron, OH 44308
Environmental Dept.

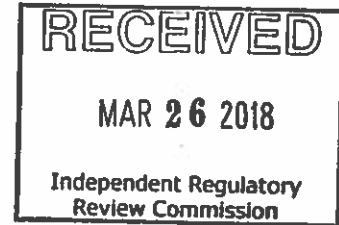
These links provide access to the attachments provided as part of this comment.

Comments Attachment: [2018 03 26 PADEP 245 Proposed Rule Comments CL.pdf](#)
Comments Attachment: [FirstEnergy Corp. Comments Proposed Amended PADEP Tank Rules March 2018 Attachments 1 and 2.pdf](#)

Please contact me if you have any questions.

Sincerely,
Jessica Shirley

March 26, 2018



Environmental Quality Board
Rachel Carson State Office Building, 16th Floor
400 Market Street
Harrisburg, PA 17101-2301

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

To Whom It May Concern:

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.

If you have any questions regarding the comments FirstEnergy Corp. has submitted on the proposed rulemaking, please contact any of the subject matter experts found in Attachment 2.

Sincerely,

A handwritten signature in cursive script that reads "Karen S. Reese".

Karen S. Reese
Staff Environmental Specialist
Environmental Department

Attachments
VIA ELECTRONIC SUBMISSION AND UPS GROUND

ATTACHMENT 1

**FirstEnergy Corp.
PADEP Proposed Rulemaking
Amendments to 25 PA Code Chapter 245
Administration of the Storage Tank
and Spill Prevention Program**



**Comments on Behalf of FirstEnergy Corp. and its Subsidiaries
Proposed Rulemaking – Amendments to the Chapter 245: Administration of the
Storage Tank and Spill Prevention Program**

**Submitted by: Gary Haag and Karen Reese/FirstEnergy Corporate Environmental Dept.
Date Submitted: March 26, 2018**

FirstEnergy Corp. is an investor owned electric utility corporation which has facilities located in the states of Ohio, Pennsylvania, New Jersey, Maryland, West Virginia, and Virginia. Combined, our electrical generation facilities produce greater than 17,000 megawatts of electricity and our ten electric subsidiary companies deliver electricity reliably to nearly 6 million customers in these six states. To provide safe, reliable, and affordable electricity generation and delivery, our subsidiaries have made significant investments at their facilities, including the installation and operation of aboveground and underground storage tanks. Implementation of the proposed amendments could significantly impact our corporation. Therefore, on behalf of FirstEnergy and its subsidiaries in Pennsylvania, we respectfully submit the following comments:

1. The regulation of Underground Storage Tank (UST) systems containing radioactive materials or coolants that are regulated under The Atomic Energy Act of 1954 and UST systems that are part of an emergency generator system at nuclear power generation facilities regulated by the Nuclear Regulatory Commission under 10 CFR Part 50, Appendix A, should be consistent with the requirements and exclusions in 40 CFR §280. Therefore, the proposed rule should be revised to be consistent with, and no more stringent than, EPA's 2015 final rule.

In the 1988 Federal UST program, EPA provided deferral for these UST systems. These USTs were deferred from Subparts B, C, D, E, and G of the UST regulations and exempted from Subpart H financial responsibility requirements. The only provisions that these UST were subject to were Subpart A, §280.11 and Subpart F, release response and corrective action provisions. Note that section §280.11 was an interim prohibition on installing UST systems unless the UST system would prevent releases due to corrosion or structural failure, was cathodically protected or designed to prevent releases, and compatible with the stored substance. The prohibitions at §280.11 were for new installations of UST systems, while the upgrading requirements for existing UST systems were located at §280.21 (Subpart B). These UST systems were deferred from the requirements of Subpart B.

In the 2015 revisions, EPA examined the Department of Energy and the NRC regulations under 10 CFR 50 and determined that the requirements are comparable to EPA requirements. Based on this analysis, EPA decided to replace the deferral for these tank systems with a partial exclusion from most requirements, but explained that "the regulatory requirements in

Subparts A and F remain the same". EPA changed the wording of the title of Subpart A §280.11 and changed the provision to clarify that this requirement is an installation requirement. All EPA did in the final rule was replace the term "deferral" with the term "partial exclusion" and exempted these UST systems from the newly promulgated requirements. EPA did not impose any new obligations on these UST systems in the 2015 final rule. EPA originally adopted the 1988 deferrals for these UST systems because it was concerned about the possibility of dual regulation with NRC requirements. In 2015 the Agency reconfirmed that the NRC requirements were comparable to the UST regulations and decided to continue to provide the exemptions for these USTs. We strongly urge the Pennsylvania EQB to follow EPA's lead and retain the Agency's partial exclusion for these existing UST systems that are already regulated by the NRC. Specifically, the existing UST should only be subject to PA 245, Subchapter D, pertaining to corrective actions.

2. §245.1 Definitions – The proposed amendments delete the definition of a "reportable release" and redefines a "release" to include all spills, leaks, emissions, discharges, escapes, leaching or disposals of a regulated substance into a containment. The definition further states that releases into a containment structure poses an immediate threat of contamination of the soils, subsurface soils, surface water or groundwater, except when a regulated substance is present in a liquid-tight containment sump or emergency containment structure as a result of a tank handling activity, if the certified installer providing direct oversight supervision has control. FirstEnergy strongly disagrees with the amended definition of a release and the deletion of the definition of a reportable release. Containment structures, emergency containments, containment sumps, and double-walled tanks are designed to contain spills, leaks, emissions, discharges, escapes, and leaching to prevent contamination to the environment. For example, by definitions a containment sump is a liquid-tight container and emergency containment serves to convey, capture and contain the total volume of an anticipated release of regulated substances from a tank system. Therefore, a release, spill, etc. into these containments does not pose an immediate threat to the environment. Also, it is contradictory to state that a release into these structures poses an immediate threat and then state that it isn't an immediate threat if the certified installer is providing direct oversight. No changes should be made to the definitions in the current rule for "release" and "reportable release".
3. Subchapter D Corrective Action Process – The term suspected release was added to various items in this subchapter. The term is not defined and is subject to interpretation.
4. §245.304 Investigation of Suspected Releases & §245.305 Reporting Releases. §245.304(c) states that except as provided in §245.305(i), if a release has occurred, the owner or operator shall report it within 24 hours and initiate corrective action. §245.305(i) states that under certain criteria a release does not require reporting if removed within 24 hours, including releases within an emergency containment. Since the proposed amendment definition of a release include discharges into containment sumps and emergency containments and some containment areas are not required to be inspected daily, virtually every discharge no matter how minor into these containments designed to prevent releases into the environment could result into reporting and potential corrective action. Again, no changes should be made to the current definitions in §245.1 for a release and reportable release, §245.305(a) should state that reportable releases are required to be reported within 24 hours and proposed amendment §245.305(i) should be deleted.
5. §245.403(d)(2) Registration of previously deferred USTs. – Thirty days to register USTs that were previously not required to be registered may not be an adequate amount of time. The

UST may have been installed many years ago and installation records will need to be retrieved and reviewed. We propose that 60 days be provided to submit the registrations to DEP.

6. §245.433 Compatibility, Subsections b & c - The proposed amendments require owners and operators to demonstrate UST system compatibility when storing alternative fuel blends, biodiesel or biodiesel blended fuel. The term "alternative fuel blend" is not defined in the proposed amended rule and therefore, would be subject to interpretation. In addition, all diesel fuel may contain some quantity of biodiesel. Therefore, potentially all diesel fuel would be a biodiesel blended fuel. The proposed rule should be limited to diesel fuel containing greater than 2 percent biodiesel. Otherwise, owners/operations will incur a significant paperwork burden with no added benefit in protecting the environment.
7. §245.445 Methods of Release Detection for Piping, Subsection (iii) – The proposed amendment requires unattended UST systems utilizing pressurized piping installed on or before November 10, 2007, to be equipped with a method that restricts or automatically shuts off the flow of regulated substances and meets the requirements in this section. We agree that such UST systems should be equipped in this manner. However, existing UST system should be afforded a 1 or 2-year period to meet this requirement.
8. §245.512 & §245.603 Facility operations and spill response plan – An initial Spill Prevention Response Plan shall be submitted to the Department for a storage tank facility with an aggregate aboveground storage capacity greater than 21,000 gallons. The proposed subsection change includes that "Plan revisions shall be submitted to the Department within 120 days of any occurrences as described in section 901(b) of the act. FirstEnergy believes the proposed 120 days should be extended to 180 days (6 months) to correspond with the SPCC requirements that require that SPCC Plan amendments be prepared within 6 months of the change and implemented immediately, or within 6 months after preparation of the amendment.
9. §245.511 General operations and maintenance and Preventive Maintenance - §245.513 preventive maintenance and housekeeping requirements as well as multiple sections propose changing the phrase "an aboveground storage tank facility owner/operator" to "a storage tank facility owner and operator." Because there are multiple plants in Pennsylvania that have a different owner than operator, FirstEnergy believes that leaving the owner/operator terminology intact or even changing it to either the "owner or operator" avoids this confusion.
10. §245.514 Security - Proposed subsection (b) and §245.603 proposed subsection (c), (Proposed subsection (b) in §245.514 & proposed subsection (c) in §245.603), suggests that an additional level of security would be provided. These subsections would require owners and operators of AST facilities with an aggregate aboveground storage capacity greater than 21,000 gallons to maintain a written log book. Each log book entry would need to identify the name of the individual performing tank handling and inspection activities, the individual's signature, the company name, the date of work, start and end times, and a brief description of work performed, including tank identification. The use of a log book containing the proposed information is a best management practice for storage tank owners and operators. Most facilities already have a procedure for the type of documentation they use for the above activities. Using these defined "log books" would provide little additional benefit and would be burdensome and time-consuming resulting in additional labor costs. In addition, the Department could issue violations if one on the entries was not entered appropriately into the log book although all tank handling and inspections were appropriately conducted and

documented. If this becomes part of 25 PA Code, then it is *no longer* a Best Management Practice, but a regulation.

11. §245.531 General corrosion and deterioration requirements. §245.531 subsection (c) currently states that “Existing tank bottoms that do not meet the standards in subsection (b) shall be upgraded when the tank bottom is replaced.” The proposed subsection (c) states that tank bottoms that are not adequately protected from corrosion and deterioration shall be upgraded to meet §245.532 and §245.534 (relating to cathodic protection systems; and interior linings and coatings).” FirstEnergy is proposing to keep the same requirement in place that is already there or at the very least allow the upgrade to take place at the next “Out of Service” inspection. The proposed requirement presents a significant burden and potential shutdown of plant operations by requiring immediate upgrades unless this work is performed either when the tank bottom is replaced or scheduled during an “Out of Service” inspection.
12. §245.542 Containment requirements for aboveground storage tank systems. In the Preamble subsection (f) is proposed to be amended to require that any water, not only stormwater, be removed from the emergency containment area as soon as possible and to clarify that the water is to be removed from the containment before it comes in contact with the AST or piping or before it reduces the capacity of the containment by 10% or more. However, in the actual proposed regulations it is written as water is to be removed from the containment before it comes in contact with the AST or piping and before it reduces the capacity of the containment by 10% or more. This requirement has a much different meaning. FirstEnergy is proposing that the verbiage in the Preamble should be used (or before it reduces the capacity of the containment by 10% or more).
13. §245.616 Inspection Requirements -Subsection (c) proposes to have small aboveground storage tanks storing regulated substances with a capacity of greater than 5,000 gallons and small aboveground storage tanks storing highly hazardous substances with a capacity greater than 1,100 gallons to conduct in-service inspections every 5 years (previously 10 years) or more often when corrosion, deterioration or other specific conditions necessitate. Increasing the frequency of small AST inspections is unnecessary when industry tank standards already provide a sound scientific and engineering basis for tank inspection schedules.

ATTACHMENT 2

FirstEnergy Corp.

Points-of-Contact

Points-of-Contact

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