

Sep 26, 2012

RESPONSE TO COMMENTS

**Jim Ruby, Executive Secretary
Environmental Quality Council**

**PROPOSED CHANGES TO WYOMING WATER QUALITY RULES AND REGULATIONS
CHAPTER 17 – STORAGE TANKS
PRINCIPAL REASONS DATED JUNE 25, 2012**

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Date: September 25, 2012

General: We received numerous telephone inquiries regarding existing operator licenses that expire in 2 years. We have told people that if these rules are promulgated, all existing, current licenses will be extended to expire 5 years from the date they were issued.

Seneca Companies' Comment (August 15, 2012):

Dan Weems, Service Manager, submitted the following question via email to Karen Halvorsen on August 15, 2012: Will service stations that have designated Class A, B, C operators be allowed to subcontract A, B operator trained service techs to complete the monthly inspections for them?

Response to Seneca Companies' Comment:

No. The Class A and B operators must be employees of the facility. Section 46(a) states that each facility must be under the supervision of a Class A operator and the Class A operator is generally the area manager for the company. A facility's area manager is not a subcontractor but an employee of the company. Section 46(b) states that the Class B operator is in responsible charge of the day-to-day operations of the facility. Day-to-day operators of a facility are also not subcontractors. Section 46(d) requires the monthly inspection be completed by the Class A or B operator for the facility. The Class A and B operators are the people responsible for ensuring the facility is operating in compliance. This responsibility cannot be subcontracted. This rulemaking does not propose changes to Sections 46(a) or 46(b) or the requirement that the Class A and B operators are employees of the facility.

Wyoming Petroleum Marketers Association (WPMA) Comments (see attached letter dated August 13, 2012). Pertinent points in the letter are provided below.

WPMA is in agreement with the proposed rules and the statement of reasons on proposed rules one through nine.

“With respect to proposed rule #10 that was added as a result of comments made to the Water and Waste Advisory Board [by the Department of the Air Force], WPMA suggests that a substantial population of release-susceptible entities may be excluded if this rule is adopted in its current form. While WPMA believes that DEQ/STP may have intended to include any facilities that transfer fuels within the course of its business, the proposed language and explanation that this change is related to “service stations” (as referenced in the statement of reasons document) may indeed be excluding a host of tank operators routinely in the business of transferring a substantial throughput of fuels in a fashion extremely similar to “service stations” but are not considered “service stations.” Construction facilities, mining, trucking companies, etc.,...that may not be considered a “service station” are ripe for product releases and should be required to continue monthly inspections. “Fueling facilities” might indeed cover these scenarios but at this point, it is unclear.”

Response to WPMA Comments:

We agree with WPMA’s comment regarding proposed rule change #10. The STP’s intent is to eliminate only emergency power generator tanks from the monthly inspections. These tanks are not filled on a routine basis, there is no fuel transfer other than delivery, and many are inaccessible during the winter (remote repeater stations on mountain tops and tanks inside Yellowstone and Grand Teton National Parks). Additionally, inspectors for emergency power generators at Warren Air Force Base missile silos require special clearance, which is a lengthy process and causes undue burden on the facility operators. The STP does not have the resources to determine whether or not specific emergency power generator tanks should be exempt; therefore, we propose to exempt all emergency power generator tanks from the monthly inspection requirement. All facilities, including emergency power generator tanks, must complete an annual inspection during the Operator’s Annual Inspection. The STP proposes to remove the word “fueling” in two places in Section 46(d) that was added after the WWAB meeting. The STP proposes new wording after the title of the paragraph that reads: This paragraph does not apply to tanks supplying fuel to emergency power generators.

Department of the Air Force Comments (see letter attached):

Specific comment from the Department of the Air Force: “WWQRR Chapter 17, Part L, Section 46 (d) currently requires each Underground Storage Tank (UST) under the control of FEW [F.E. Warren Air Force Base] to be inspected monthly by a certified class A or B operator. The inspection and certification requirement puts an undo financial and manpower burden on UST owners/operators with multiple generator facilities in remote locations. The nature and security of these systems makes them difficult if not impossible to access during inclement weather. These USTs pose less risk for contamination than fueling facilities because they are associated with “emergency” or “stand-by” generators, requiring infrequent refueling (averaging 5 years between refueling events for FEW).”

Response to the Department of Air Force Comments:

At the WWAB meeting we agreed with the Air Force’s comments and have revised the language in Section 46(d). Specifically, as proposed under the WPMA response to comments above, we intend to add a statement after the title of the paragraphs that reads: This paragraph does not apply to tanks supplying fuel to emergency power generators.

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