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Executive Director

Mark Larson

August 13, 2012

DEQ/Solid & Hazardous Waste Division
122 West 25th Street
Herschler Building – 4W
Cheyenne, Wyoming 82002

Re: Proposed Rules Amending Chapter 17, “Storage Tanks”

Dear Council,

The Wyoming Petroleum Marketers Association (hereafter WPMA) is in agreement with the proposed rules and the statement of reasons on proposed rules one through nine. These proposed rules address issues that have been identified subsequent to the passage of the initial regulations. WPMA has worked closely with the Storage Tank Program in identifying gaps in Environmental Protection Agency guidelines that warrant corrective amendments to the Wyoming regulations while assuring compliance with those guidelines.

Proposed rule #1 and conforming proposed rule #4 are of particular interest to WPMA. The originally required two-year retesting requirement for Class A and Class B operators is onerous and unnecessary. Once a Class A or Class B operator has passed the operator certification via International Code Council (ICC) testing centers, that certification should be sufficient for years to come. Given that the regulations for storage tanks change so infrequently and given that an operator is required to immediately retest and recertify if certain violations are incurred at a covered location, changing the two year retesting requirement to five years only seems prudent and will not affect the intent, efficacy or scope of the regulations.

Important to this discussion, all bordering states with Wyoming currently have no retesting requirements except for incidents of violations that result in immediate retesting. As of January, 2012, thirty-one states have adopted no retesting requirements, two states have adopted five year retesting, one state has a four year requirement, four states have a three year requirement, four states (WY, ME, NH, and CT) have a two year retesting requirement and nine states have yet to adopt a policy.

With respect to proposed rule #10 that was added as a result of

comments made to the Water and Waste Advisory Board, 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.

WPMA agrees that those entities that utilize storage tanks in static form...i.e. no fuel transferring other than delivery...rightfully should be exempt from monthly inspections when conditions preclude ease of access and when remote monitoring is being utilized, such as with the missile installations. However, a blanket exemption from monthly monitoring for all non-“service station” facilities...if that is the intent...seems an overreach and increases potential unnecessary risk. Physical inspections are the *only* preemptive way to prevent releases. While monitoring systems are technologically advanced devices and substantial help in mitigating risk, they do not see into the future or detect a worn or corroded part. Accordingly, WPMA feels an outright exemption from inspections except annually, does not adequately reflect the physical realities of potential releases and the associated liability. Perhaps exemptions when conditions warrant is a more appropriate approach or possibly quarterly inspections when addressing the missile installations. WPMA is not proposing suggested language to better clarify “fueling facility” or when monthly inspection exemptions are appropriate. However, WPMA feels strongly that any facility where fuels are routinely transferred should not be exempt and monthly exemptions for emergency generators, etc., should reflect atypical barriers to completing inspections but not ignore the realities that remote monitoring is not a panacea. Only physical inspections are truly preventative. We urge clarifying language.

WPMA wishes to thank the Storage Tank Program for proposing these rules. Petroleum marketers and retailers recognize and accept the responsibility to the citizens of Wyoming that petroleum product releases are minimized to the maximum possible extent. Indeed, the Wyoming Program has achieved a remarkable 96% compliance rate that benefits everyone in the state.

Thank you for your time and consideration of these comments.

Best Regards,



Mark Larson
Executive Director
Wyoming Petroleum Marketers Association
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