



Seneca Companies

FILED

JUN 08 2007

June 8, 2007

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Department of Environmental Quality
S&HWD Rules
Herschler Building- 1W
122 west 25th Street
Cheyenne, WY 82002

RE: Comments on Proposed Changes to Chapter 17 of the Wyoming Water Quality Rules and Regulations.

On behalf of Kum & Go, Seneca Environmental Services is presenting you with comments on the proposed changes to Chapter 17 of the Wyoming Water Quality Rules and Regulations.

Enclosed is the draft regulation and our proposed changes and comments.

Please contact me at (515) 261-7743 if you have any questions or need additional information.

Respectfully,
Seneca Environmental Services

Chris Nickell
Compliance Manager

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PART K

PROHIBITION OF DELIVERIES
AT NON-COMPLIANT FACILITIES

Section 44. Prohibition of Deliveries

(a) *Reasons for Restricting Delivery.* Prohibition of delivery of regulated substances to a ~~storage tank system~~ non compliant underground storage tank and appurtenances shall be required when the department becomes aware that:

(i) The owner and/or operator has not performed leak detection on the tanks as required in Part D of this chapter for any period exceeding sixty (60) days;

(ii) The most recently required cathodic protection test has not been done within ninety (90) days of the date when due under Section 11(b) of this chapter;

(iii) A cathodic protection test done in accordance with Section 11 has failed and has not been repaired and retested within ninety (90) days of the date when the original failing result was obtained;

(iv) The most recently required pressure test of the lines has not been done as required under Sections 14(g)(i)(B) of Section 14(g)(ii) of this chapter (as applicable) within ~~sixty (60)~~ ninety (90) days of the date due;

-Can 60 days be changed to 90 days to have it be the same time frame as other items in this section and to ensure that contractors and subcontractors can be lined up and the job can be completed.

(v) The most recently required functional test of automatic line leak detectors has not been done as required under Sections 14(g)(i)(B), Section 37(a), or Section 37(b) of this chapter within ~~sixty (60)~~ ninety (90) of the date due;

-Can 60 days be changed to 90 days to have it be the same time frame as other items in this section and to ensure that contractors and subcontractors can be lined up and the job can be completed.

(vi) The owner and/or operator has failed to report a

suspected release under Section 19 when required by Sections 14(b), 15(a)(iv), 16(a)(viii), 16(b), 16(c)(ii), 16(d)(viii), 16(e)(x), 16(f)(iv), 16(g)(v), 16(h)(vii), or 19 of this chapter;

(vii) The owner and/or operator has reported a suspected release under Section 19 but has failed to ~~perform~~ initiate the release investigation required under Section 20 of this chapter;

- Can the term investigation defined.
- Can the required investigation time be changed from 7 days to 14 days to allow for ensure that contractors and subcontractors can be obtained.

(viii) The owner and/or operator has reported a confirmed release, but repairs have not been made to the ~~storage tank system~~ non compliant underground storage tank and appurtenances;

(ix) The owner and/or operator has failed to pay the storage tank registration fee which is due on July 1 of each year by August 1 of the year when due;

(x) The owner and/or operator has failed to follow any Order issued by the department, unless that Order is under appeal to the Environmental Quality Council;

(xi) Any required monitoring device has been purposely tampered with or turned off; or any record required to be kept under this chapter has been falsified; except when necessary to perform required testing or inspection.

- Please provide definition of "turning off" monitoring device. Is silencing an alarm turning it off?

(xii) Any regulated tank is discovered without overflow and spill prevention devices in place as required by Section 6(c) of this chapter;

(xiii) Any regulated tank is discovered without cathodic protection equipment in place as required by Sections 6(a)(ii) or 6(b)(ii) of this chapter;

(xiv) Any regulated above ground storage tank has not been fully upgraded under Part I of this chapter after October 1, 2007;

(xv) The operator's annual inspection has not been performed, as required by Section 13(e) or Section 36(f) of this chapter, within ninety (90) days of the date when due; or

(xvi) The department becomes aware that there has been no Licensed Level 1 Operator for a facility for ninety (90) days or more beyond the initial grace period of one year from enactment of this section or six (6) months which ever is later for a new employee.

(b) Procedures for Prohibiting Deliveries of Regulated Substances. When any of the causes for prohibition of delivery exist as shown in paragraph (a) of this section the department shall issue an Administrative Order to prohibit deliveries of the regulated substance. This Administrative Order will be sent to the owner of the facility where the prohibition is being enacted. It will be delivered by certified mail.

The Wyoming Fuel Tax Administration tracks fuel suppliers of record for all storage tank facilities selling gasoline or diesel. The department shall obtain, from the Wyoming Fuel Tax Administration, the names of suppliers of record for any facility which is the subject of an Administrative Order under this subsection. When there are suppliers of record with the Wyoming Fuel Tax Administration, those suppliers shall also be ordered not to deliver regulated substances in the Administrative Order.

(i) Administrative Orders issued under this Part shall include the following information:

(A) The name of the Owner and/or Operator of the storage tank system;

(B) The street address of the facility where the storage tank system is located;

(C) The Storage Tank Program Facility ID Number;

(D) The specific tanks at the facility which are

restricted, or if all tanks at the facility are restricted;
and

(E) The reason for the restriction;

(ii) An Administrative Order issued under this section is final as soon as signed by the Administrator. Administrative Orders can be appealed to the Environmental Quality Council within ~~ten (10) days~~ fifteen (15) business days;

- This allows for the mail to be delivered and sufficient time for an appeal to be made.

(iii) The department shall immediately issue a Notice of Compliance with a copy to the Owner and/or Operator, to lift the prohibition whenever the facility has been returned to compliance. Such notice shall include the same information found in Section 44(b)(i)(A) through (D) This will be delivered to the owner of the facility where the prohibition took place by certified mail;

(c) *Posting on the internet.* The department shall immediately post a copy of the Administrative Order on its website whenever a facility is prohibited from accepting deliveries of regulated substances. The department shall also post a Notice of Compliance on its website when the prohibition has been lifted. The notices will state which tanks at the facility are affected. The Department will send an email to owners to notify them that the Notice of Compliance has been posted on internet.

(d) *Red Tagging.* The department may, at any time after issuing an Administrative Order under this Part, place a tag on the affected tanks stating:

"DELIVERY PROHIBITION
Deliveries of any regulated substance to this tank have been prohibited by the State of Wyoming, Storage Tank Program. Delivery of any regulated substance to this tank while the delivery prohibition exists is a violation of Chapter 17, Part K, Wyoming Water Quality Rules and Regulations."

PART L

LICENSING OF STORAGE TANK OPERATORS

INSTALLERS AND TESTERS

Section 45. **Licensing of Installers**

(a) *License Required.* Each person that may accomplish work on the installation or modification of any UST or AST regulated by this chapter shall be licensed to install or modify fuel tanks by the department within six (6) months of starting work for the installation contractor. To obtain these licenses, each person shall submit documentary evidence that he or she has passed the following tests within the two years preceding the application date:

(i) All Installers:

(A) The International Code Council test on Wyoming State Specific Storage Tank Laws.

(B) All UST or AST installers in Wyoming shall have a current certificate for Hazardous Waste Operations and Emergency Response as required by the Wyoming Department of Employment, Occupational Health and Safety, Chapter 7, section 1910.120.

(ii) UST Installers. UST Installers shall pass the International Code Council tests on:

(A) UST Installation and Retrofitting test;

(B) UST Decommissioning; and

(C) UST Tank Tightness Testing;

(iii) AST Installers. AST Installers shall pass the International Code Council test entitled AST Installation and Retrofitting test;

(b) *Persons recently hired.* Persons who have not received the above license(s) may work on the installation or modification of an AST or UST under the direct supervision of an on-site supervisor who has passed the required tests until six (6) months after the date of their first employment. After six (6) months, persons who have not been licensed shall not work on installing or modifying Storage Tanks in Wyoming.

(c) *License Renewal.* Persons who are licensed as UST or AST

Installers shall renew their license every two years.

(d) *Reciprocity with other states.* After evaluation of the other state's licensing requirements, the State of Wyoming Storage Tank Program, may accept a license from any other state in lieu of the International Code Council tests required in Section 45(a)(ii) and (iii).

Section 46. **Licensing of Operators of Storage Tanks**

(a) *Level 1 Operator.* All owners and/or operators of storage tanks in Wyoming shall insure that the person who is in responsible charge of the day-to-day operation of the storage tanks obtains a license from the department. For facilities used to fuel vehicles, the person in responsible charge ~~cannot also be in responsible charge of other facilities in other locations at the same time~~ may be in charge of multiple locations within 30 mile radius.

-This allows for a level 1 operator to oversee sites within a reasonable distance and to respond to emergencies in an acceptable amount of time. This will ensure a competent person is available and counteract the effects that turnover will have.

(b) *Timing.* The person in responsible charge shall, within six months of their first date of employment with the company in a capacity of being in responsible charge of any facility obtain a Level 1 Storage Tank Operator's license from the department. To obtain this license, each person shall submit documentary evidence that he or she has passed the following tests within the two years preceding the application date:

(i) *UST Operators.* The International Code Council test for UST System Operators; and/or;

-What are requirements for ICC, Who provides training, How many times can the test be taken, Where can tests be taken?

(ii) *AST Operators.* The International Code Council test for Wyoming AST System Operators.

(c) *Level 2 Operator.* Each facility shall also have a person available who has obtained a Level 2 Storage Tank

Operator's License. To obtain a Level 2 Storage Tank Operator's License, each person shall have a ~~Level 1 Storage Tank Operator's License~~ and submit documentary proof that they have passed The International Code Council test on Wyoming State Specific Storage Tank Laws. A Level 2 Storage Tank Operator shall not be responsible for more than fifteen (15) facilities that are used to fuel vehicles. A level 2 Operator may act as level 1 operator at up to but not exceeding 4 sites within a thirty (30) mile radius.

-This allows for a level 2 operator to act as a level 1 operator at multiple sites within a reasonable distance and to respond to emergencies in an acceptable amount of time. This will ensure a competent person is available and counteract the effects that turnover will have.

(d) *Level 3 Operator.* Each facility shall have access to one or more persons, either within the company or a contractor, who has a valid tank and line testers license and a valid cathodic protection testers license if the facility has any steel tanks or lines.

(e) *License Renewal.* Persons who are licensed as UST or AST Operators shall renew their license every two years. Retaking the International Code Council test will not be necessary in cases where their have been no compliance violations.

-This will allow long term operators who have been doing their job correctly and every day to not have to retake a test over material they already know and are in compliance with.

(f) *Reciprocity with other states.* After evaluation of the other state's licensing requirements, the State of Wyoming Storage Tank Program, may accept a license from any other state in lieu of the International Code Council test required in Section 46(b)(i).

Section 47. Licensing of Cathodic Protection Testers and Corrosion Experts.

(a) *Cathodic Protection Testers.* Persons who perform any cathodic protection testing shall obtain a license from the

department. To obtain this license, each person shall submit documentary evidence that he or she is:

(i) certified by NACE as a cathodic protection tester within the two years preceding the application date; Or

(ii) certified by the Steel Tank Institute as a cathodic protection tester, within two years preceding the application date.

(b) *Corrosion Experts.* Persons who design any impressed current system or any sacrificial anode system or design any repair to these systems shall first be licensed by the department. To obtain a license, each person shall submit documentary evidence that he or she:

(i) is certified as a corrosion expert by NACE, or

(ii) possesses a current Professional Engineer's license issued by the Wyoming Board of Registration for Professional Engineers and three years experience in the field of cathodic protection.

(c) *Certification Renewal.* Persons who are licensed as Cathodic Protection Testers and Corrosion Experts shall renew their license every two years.

Section 48. Licensing of Tank and Line Testers.

(a) *License Required.* Before performing tests in Wyoming, all tank and line testers shall obtain a license from the department. To obtain a license, each person shall submit documentary evidence that he or she has passed:

(i) The International Code Council test on Tank Tightness Testing within the preceding two years before the date of the application; and

(ii) The manufacturers training certification for the type of tank and line tests performed.

(b) *License Renewal.* Persons who are licensed as Tank and Line Testers shall renew their license every two years.

(c) *Reciprocity with other states.* After evaluation of the other state's licensing requirements, the State of Wyoming

Storage Tank Program, may accept a license from any other state in lieu of the International Code Council test on Tank Tightness Testing required by Section 48(a)(i).

Section 49. Revocation of Licenses. The department may revoke or refuse to issue any of the licenses required under Sections 45 through 47 of this chapter for the following reasons:

(a) *Submission of Falsified Data.* Whenever the department has documentary proof that any of the information submitted to the department for the purpose of obtaining a license was falsified;

(b) *False Reporting.* Submission of any report to the department which is shown by the tester as passing when the test actually shows a failing result; or

(c) *License Revoked.* Whenever any of the issuing agencies (ICC, NACE, the Board of Registration for Professional Engineers, or the Manufacturer of test equipment) revokes the certifications necessary which are required for a license.

(d) When a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license does not expire until the application has been finally determined by the agency, and, in case the application is denied or the terms of the new license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

(e) Whenever the department intends to revoke any license issued under this section the department shall notify the licensee by mail, stating the facts or conduct which warrant the intended action. The licensee was given an opportunity to show compliance with all lawful requirements for the retention of the license. The licensee shall have (15) days from the date of his receipt of the notice to provide additional evidence or information with respect the revocation of the license. Revocation of licenses is a final agency action subject to appeal to the Environmental Quality Council under Chapter 1, Section 6, Wyoming Environmental Quality Council, Rules of Practice and Procedure.

Section 50. Implementation of Part L.

All persons required to have licenses under Part L shall obtain those licenses within one year of the effective date of this chapter or the date when they would otherwise be

required to obtain those licenses, whichever is the later date.

-Can the implementation guides mirror those of the federal government as outlined in the Energy bill of 2005, i.e. 3 years from date of enactment or August of 2012.