

TANK INSTALLERS OF PENNSYLVANIA

State Association

Executive Director, Walter E. Rimmer

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Environmental Quality Board
P. O. Box 8477
Harrisburg, PA 17105-8477

RE: Proposed Rulemaking and Request for Comment pertaining to the Administration of the Storage Tank and Spill Prevention Act, 25 Pa. Code Ch. 245; 36 Pa.B. 1851

Dear Environmental Quality Board Members:

EQB Comment Summary
Tank Installers of Pennsylvania
Proposed Rulemaking: Administration of the Storage Tank and Spill Prevention Act

The Tank Installers of Pennsylvania ("TIP") welcomes the opportunity to share its view on the Proposed Rule's affect upon the professionals involved with the installation of USTs and ASTs, and the general impact on the installation, operation and spill prevention of these tanks. TIP is a state non-profit trade association, founded in 1988 and operational prior to the enactment of the Pennsylvania Storage Tank and Spill Act ("Act"). TIP serves its members by providing education and the latest information about tank system components, installation practices, and system testing prior operation and maintenance of USTs and ASTs, from both an operational and regulatory standpoint.

In general, TIP is in favor of the DEP's objective to offer clarity to the administration of the storage tank and spill prevention program. TIP is particularly supportive of: 1) the new tank registration provisions in Subchapter A, 2) changes to the general certification requirements in Subchapter B, and 3) the requirements for double walled USTs in Subchapter E. However, TIP is concerned because the Proposed Rule fails to address certain concerns that must be remedied through additional regulatory change. The continuing education for installers is a positive step, but further clarification is necessary concerning the specific hours needed to maintain certification.

For the purposes of this summary, we highlight our primary comments for the Board

Section 245.114 Comment No. 1: We would like to have provisions about the number of hours and specific types of courses that are approved. Specifically, TIPs recommends that a new provision be added that states that the minimum annual requirement for continuing education be 8 hours or 8 CEUs (Continuing Educational Units) per year. Six (6) ECUs per year would come from TIP (Tank Installers of Pennsylvania) State Association. Our TIP courses act as, industry specific training courses and include complying with all the many various State Regulatory Agencies beside the DEP Storage Tank Section and Regulations: 1) the PA Department of Labor and Industry's Boiler Division Law, as well as relevant portions of various laws (i.e., electrical code, signage, fire and explosion safeguards for flammable and combustible liquids storage), such as the Uniform Construction Code, Flammable & Combustible Liquids Law, and related tank installation permit requirements and procedures, 2) the PA Department of Agriculture's Consolidated Weights and Measures Act and other regulations concerning the calibration of gasoline pump dispensers for full gallon measures, 3) the federal Occupational Safety and Health Administration code provisions concerning worker safety in a hazardous atmosphere or when involving flammables and combustibles (collectively, "multi-discipline technical courses") and 4) the (PEI)

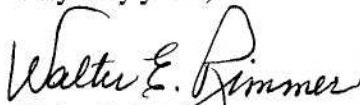
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Petroleum Equipment Industry International code practices. The (2) remaining hours or CEUs should be from industry manufacturers demonstrating new product procedures for correct installation and the testing of new the system components. **This needs to be accomplished because** our industry works in a rapidly changing workplace. For the past 15 years only 40% of the certified tank installers participate in industry specific, on going educational training. It is time the other 60% of the certified individuals and companies be held to professional standards and continuing education. Industry suppliers are ready to do their part to provide on going education to make sure their products are understood, installed, tested and replaced as necessary by qualified field technicians.

Comment 2: Subchapter B should be expanded to include a new certification category. This needed category could be known as Aboveground Storage Tanks or (AST-UL). This category would allow Installations, Minor Modifications, and Removals. These Aboveground tanks are built to strict U/L standards. These tanks are specifically built to store and dispense flammable and combustible motor fuels. They rarely reach a maximum capacity of 50,000 gallons. (Shop built tanks should never be confused with field built/erected tanks which reach in to the millions of gallons). This is needed as historically DEP has not differentiated between the two types of ASTs **This category is needed because:** Prior to legislation, UST installers routinely performed these tank installations, setup and removals. Since DEP, did not recognize these tanks as a separate and unique category, they were lumped in with what is generally thought of as the large refinery tanks holding hundreds of thousands and millions of gallons tanks. In short, these small ASTs keep Pennsylvania going. Many good people continue to walk from their trade and occupation because of the very high costs associated with trying to work in a category DEP has never recognized. The few regulated people ask that DEP add this new category now so they do have to walk away from business customers they have been serving.

We thank you for your consideration of our comments on the Proposed Rule. TIP encourages the DEP to consider our comments and the ramifications of the Proposed Rule as currently written. I am available to discuss further any aspects of our submission and appreciate this opportunity to offer our comments on this important matter.

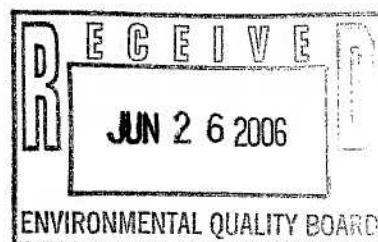
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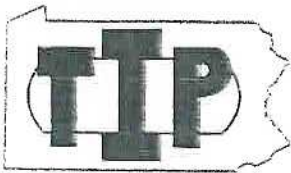

Walter E. Rimmer

Executive Director

Enclosure

cc: TIP Board of Directors
✓ Secretary Kathleen McGinty
Deputy Secretary Thomas Fidler
Bureau Director Kenneth Reisinger





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Tank Installers of Pennsylvania's Comments To Pa.B. Doc. No. 06-656

Administration of the Storage Tank and Spill Prevention Act

25 Pa. Code Ch. 245

The Pennsylvania Department of Environmental Protection ("DEP" or "Department") is proposing a rule (hereinafter, the "Proposed Rule") to make both comprehensive and minor editorial amendments to the administration of the Pennsylvania Storage Tank and Spill Prevent Act. The DEP has asked for comments on the Proposed Rule and the Tank Installers of Pennsylvania. ("TIP") welcomes the opportunity to share its view on the Proposed Rule's affect upon the professionals involved with the installation of USTs and ASTs, and the general impact on the installation, operation and spill prevention of these tanks. TIP is a state non-profit trade association, founded in 1988 and operational prior to the enactment of the Pennsylvania Storage Tank and Spill Act ("Act"). TIP provides continual education and the latest information about the installation, operation and maintenance of USTs and ASTs, from both an operational and regulatory standpoint. TIP acts as an arm of the nationally recognized Petroleum Equipment Institute located in Tulsa, OK and works to keeps the Commonwealth of Pennsylvania and its regulated community in step with all national codes and practices. TIP has provided the original DEP Storage Tank staff with a three day training seminar for over 100 people. TIP also provided training for over 100 Pennsylvania State Police Fire Marshals who at that time were in charge of permitting and inspection of all USTs and ASTs within the Commonwealth. This was provided at the request of Captain Joseph Robyak. Prior to Act 245, TIP was testing and training our memberships' installers who later became regulated by the Storage Tank Division of DEP. When DEP was about to allow 70% passing score TIP fought for a 90% score. TIP believes is "Doing it right the first time...every time". TIP remains dedicated to Quality, Safety and Environmental Protection through Education, Training and Certification. TIP continues to hope that State certified companies belong to a professional State trade Association if one is available in their state. This requirement is long overdue in Pennsylvania.

In general, TIP is in favor of the DEP's objective to offer clarity to the administration of the storage tank and spill prevention program. TIP is particularly supportive of: 1) the new tank registration provisions in Subchapter A, 2) changes to the general certification requirements in Subchapter B, and 3) the requirements for double walled USTs in Subchapter E.

However, TIP is concerned because the Proposed Rule fails to address certain concerns that must be remedied through additional regulatory change. Specifically, the continuing education for installers is a positive step, but further clarification is necessary concerning the specific hours needed to maintain certification.

1. Section 245.1 - DEFINITION OF "REGULATED SUBSTANCE"

Section 245.1 of the Proposed Rule is expanding the definition of "regulated substance" in order to bring under regulation certain nonpetroleum oils, bio-diesel, synthetic oils, silicone fluids, gasoline additives and certain nonpetroleum substances in 34 Pa. Code Chapter 343 (relating to hazardous substance list). The reason for the change is to add substances that present health, safety or environmental hazards that are not currently found on the hazardous substance list from section 101(14) of the Comprehensive Environmental Response, Compensation and liability Act of 1980 ("CERCLA List") or are not currently regulated as a petroleum substance.

The "regulated substance" proposal is too broad, and steps must be taken to assure that the regulated community and the public can readily ascertain which substances are subject to regulation under the Act. Nonpetroleum substances (Regulated substance (i)(C)(III)) listed in 34 Pa. Code Chapter 323 involves an extensive hazardous substance list including liquids, solids, powders and gases. The majority of the liquids included on this list, is also on the CERCLA List and already regulated by the storage tank program. The regulated community should not be required to wade through this extensive (Department of Labor and Industry) list to determine which substances may or may not be regulated under the storage tank program. How many new hazardous substances are being added? If there are additional substances in the newly referenced list that merit regulation under the storage tank program, they should be selected and specifically listed in the regulated substance term or at least shown in the same way the nonpetroleum oils proposals are shown.

2. Section 245.113(a) - REQUIREMENTS FOR IUM and IAM

Requirements for 20 activities should be maintained for all Experience and Qualification alternatives. As proposed, no activity experience will be necessary for certification. Significant field experience is necessary for inspector qualifications.

3. Section 245.132(c) - REQUIREMENTS FOR AMNX

Twelve (12) activities are very difficult to achieve. Very few non-metallic tanks are installed or modified. Should be changed to six (6).

4. **Section 245.41 – DEP NEEDS AUTHORITY TO WITHDRAW OR WITHHOLD PERMITS FOR TEMPORARILY CLOSED OR OUT OF SERVICE TANKS**

Section 245.41 is a new section that requires tank owners to properly register each regulated storage tank. These proposed requirements have been program policy for several years. An additional provision should be inserted in order to address the situation for a tank that is temporarily closed or out of service. Under its policy, DEP could withdraw or withhold permits for temporarily closed or out of service tanks. DEP should have the authority to address withdrawing or withholding tank operating permits for tanks that are no longer in an operating status. Tanks that are permanently closed or removed from service obviously do not need an operating permit. Since tanks temporarily closed or in out of service status must be empty, these too should have operating permits routinely withdrawn or withheld. Corresponding provisions should be included at Subchapter C.

5. **Section 245.114 – CONTINUING EDUCATION FOR TANK INSTALLERS NEEDS TO BE QUANTIFIED TO EXPLAIN HOW MANY HOURS OF TRAINING IS REQUIRED**

Section 245.114, the “Renewal and amendment of certification” section provides a much needed transition from qualifications based on *activities* to qualifications based on *training* (or continuing education). However, Section 245.114 needs to quantify how many hours of training is specifically required for each certification category. As currently written, this section only states that technical and administrative training are required, but does not specify how much or what types of training or courses would satisfy each requirement or certification category. The costs and compliance benefits information, on pages 1860 and 1861 of the Pennsylvania Bulletin, indicate that current ongoing industry training may be used to meet the certification qualifications, but more detail is needed in the rulemaking on what specific training meets these requirements.

TIP Comment Section 245.114 Provisions are needed about the number of hours and specific types of courses that are approved. Dedicating just one day per year to your occupational trade should not be a problem to anyone. Specifically, TIP recommends that a new provision be added that states that the minimum annual requirement for continuing education be 8 hours or 8 CEUs (Continuing Educational Units) per year. Six (6) CEUs per year would come from TIP (Tank Installers of Pennsylvania) State Association. These TIP courses act as industry specific training courses and include complying with various State Regulatory Agencies beside the DEP Storage Tank Section: 1) the PA Department of Labor and Industry’s Boiler Division Law, as well as relevant portions of various laws (i.e., electrical code, signage, fire and explosion safeguards for flammable and combustible liquids storage), such as the Uniform Construction Code, Flammable & Combustible Liquids Law, and related tank installation permit requirements and

procedures, 2) the PA Department of Agriculture's Consolidated Weights and Measures Act and other regulations concerning the calibration of gasoline pump dispensers for full gallon measures, 3) the federal Occupational Safety and Health Administration code provisions concerning worker safety in a hazardous atmosphere or when involving flammables and combustibles (collectively, "multi-discipline technical courses") and 4) the (PEI) Petroleum Equipment Industry National code practices. The (2) remaining hours should be accomplished by industry manufacturers demonstrating new product procedures for correct installation and the testing of new system components. **This needs to be accomplished because** TIP membership accounts for 40% of the certified tank installers in Pennsylvania. It is long past due time that the other 60% be held to professional standards and continuing education in a rapidly changing work place. It is not uncommon for states to require that State certified companies must also belong to a professional State trade association if one is available in their state. TIP asks that these legislative changes also occur at this time.

6 Section 245.543 – LEAK DETECTION REQUIREMENTS(C)
Requires clarification. Is testing requirement at the next In Service or Out of Service Inspection?

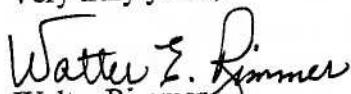
7. Section 245.704 – DEP NEEDS AUTHORITY TO WITHDRAW OR WITHHOLD PERMITS FOR TEMPORARILY CLOSED OR OUT OF SERVICE TANKS

8. Section 245.704 – FINANCIAL RESPONSIBILITY
Requirements, indicates that USTIF deductible coverage must be approved under section 701(b) of the Act. It is unclear whether the Department will require submission of deductible coverage for approval or is the Department proposing to deem the listed methods approved. Further clarification should be provided in the Proposed Rule.

SUMMARY AND RECOMMENDATIONS

TIP is supportive of Storage Tank Section and its willingness to help make Pennsylvania continue to be a leader in our nation. Our comments were made to help clarify and improve Commonwealth regulations. TIP hopes that the DEP will give serious consideration to implementing all of TIP's comments. Pennsylvania must be protective of public health and the environmental for the benefit of all Pennsylvanians. TIP recommends prompt issuance of the Proposed Rule, as modified herein.

Very truly yours,


Walter Rimmer
Executive Director

cc:
Swokel
Klapkowski