

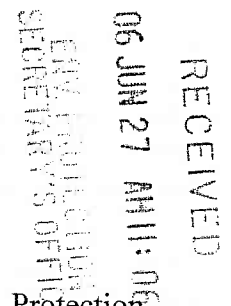
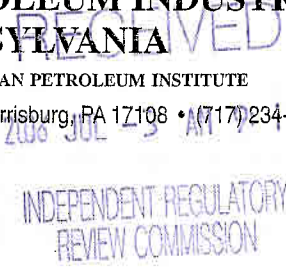
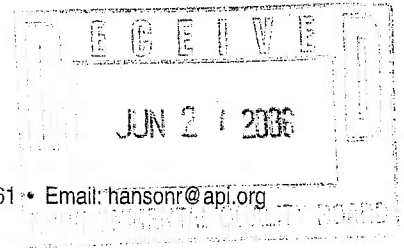


**ASSOCIATED PETROLEUM INDUSTRIES
OF PENNSYLVANIA**

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ROLF HANSON
Executive Director



June 26, 2006

Environmental Quality Board
P.O. Box 8477
Harrisburg, Pennsylvania 17101-2301
RegComments@state.pa.us

Subject: Title 25. Environmental Protection, Part I. Department of Environmental Protection,
Subpart D. Article VI., Chapter 245 Administration of the Storage Tank and Spill
Prevention Program

Dear Docket Clerk:

The Associated Petroleum Industries of Pennsylvania, a division of the American Petroleum Institute (API), is pleased to provide comments on the subject proposed rulemaking. APIP/API is a national trade association representing over 400 companies involved in all aspects of the oil and natural gas industry including exploration and production, transportation, marketing, and refining. As such, our member companies have a direct interest in the proposed rulemaking.

The Pennsylvania Department of Environmental Protection (DEP) and the regulated community would be best served to work toward the total inclusion of the federal requirements before going forward with what would amount to interim and potentially conflicting rulemaking. If there is additional statutory authority necessary for full implementation of the new federal requirements, this should be the current focus of the PA DEP in this regard. If all authorities are already in place, this rulemaking should be taken back to the Storage Tank Advisory Committee to include the federal provisions following the issuance of prescribed and final guidelines by the USEPA. This recommendation would only result in a short-term delay of this proposed rulemaking as the federally required state implementation dates are on a relatively short timeline. If the DEP determines to move forward with these proposed rules we offer the following comments to that rule.

APIP recognizes the effort to meet the recent changes to the federal UST law under the Energy Policy Act of 2005 (EPA 05). For example, there is an appropriate tightening of the inspection frequency consistent with the new federal law from every 5 years or 10 years to once every 3 years. However, the proposed rulemaking stops significantly short in meeting many of the EPA 05 requirements. [§245.411(c)(1) and (2)]

The proposed regulation contains an owner/operator training requirement that would be applicable to owners/operators but contingent upon UST program violations documented through inspections. [§245.411(d)] The federal law requires training of three classes of UST owner/operator and is not conditioned on the receipt of notices of violations.

In the subject amended regulations, there is a new section that lists industry standards and codes with a requirement that UST systems must comply with those standards then ends with a statement that, "Regulatory requirements prevail over codes and standards whenever there is a conflict." To be fair to the regulated community, the PA DEP should list those exceptions either in the regulations or in some publicly accessible site (e.g., the DER UST Website). [§245.405(d)]

As to the amended inspection requirements, it is very difficult to track a specific date for future inspection based on the date of tank installation or the last inspection relative to future inspections. It would be more appropriate to state that subsequent inspections be conducted within a 3 year or 36 month period rather than specifically, "commencing after the last inspection." [§245.411(c)(1) and (2)]

The performance standards for all new UST systems would be required to have "total secondary containment, which consists of double-walled tanks, double-walled piping and liquid-tight containment sumps, tank manway riser sumps and dispenser pan sumps that allow for release detection monitoring of the system." It is not entirely clear whether or not the "liquid-tight containment sumps, tank manway riser sumps and dispenser pan sumps" must be double-walled. APIP believes that this is not the case and that these components of the UST system act as secondary containment without themselves being double-walled. APIP also believes that by definition, vapor and vent piping as well as other equipment related to vapor recovery would not be included in the requirement for double-walled piping. However, remote fills and its associated piping should fall under the requirement for secondary containment. A clarification by the DEP on these matters would be appreciated. [§245.421(a)(1)]

There are some major retrofit and upgrade requirements in the proposed regulations that merit further public discussion prior to promulgation. This includes Release Detection Equipment required to be upgraded for systems using interstitial monitoring or electronic line leak detection from an alarm to an automatic pump shut-off device within 2 years of the final regulation. Due to the significance of these new requirements, API requests a public hearing to address the proposed rulemaking. [§245.422(e)]

Additionally, APIP recommends that the paragraph on interior lining reference API Recommended Practice 1631, Interior Lining and Periodic Inspection of Underground Storage Tanks. This document covers recommendations for the interior lining of existing steel and fiberglass reinforced plastic underground storage tanks used to store petroleum based motor fuels as well as the inspection of those liners. [§245.422(e)]

For testing or monitoring for vapors and groundwater contamination, there is a requirement for a professional geologist to evaluate the site to ensure such monitoring is in compliance with the requirements. This is something new and of questionable value. This requirement should only apply to sites where such monitoring is being installed and not to existing sites. [§245.444(5)(vi) and (6)(vii)]


With regard to above ground storage tanks (ASTs), APIP requests clarification of Section 245.543(c) that would specifically require existing ASTs "without secondary containment under the bottom of the tank" and "do not have cathodic protection or an internal lining," to be "tested for tightness at the next scheduled service inspection." APIP reads this requirement as applicable

to ASTs that do not have both secondary containment tank bottom AND cathodic protection. If an AST has either protection, then the tightness test is not required. [§245.543(c)]

APIP requests clarification on how the regulated community is to apply API Publication 334 for tank tightness testing. The document describes methods for detecting leaks, which is not necessarily the same thing as "tightness testing". API Publication 334, entitled, "A Guide to Leak Detection for Aboveground Storage Tanks," is written for terminal managers, tank owners, operators, and engineers as a background on leak detection technologies - volumetric, acoustic, soil-vapor monitoring, and inventory control for ASTs. The publication discusses test method characteristics affecting the performance of each test technology. APIP would like to have the opportunity to further discuss this matter with the DEP and, at a minimum, suggests that the term "tightness testing" be changed to "leak detection."

Thank you again for the opportunity to provide input for the development of this important program. If there are any questions regarding the information offered, please do not hesitate to contact me at the information given above.

Sincerely,



Rolf W. Hanson

