



PENNSYLVANIA CHEMICAL INDUSTRY COUNCIL

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The Honorable Kathleen A. McGinty
Environmental Quality Board
Rachel Carson State Office Building, 15th Floor
400 Market Street
Harrisburg, PA 17105-2301

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INDEPENDENT REGULATORY
REVIEW COMMISSION

Dear Secretary McGinty:

On behalf of the members of the Pennsylvania Chemical Industry Council (PCIC), I offer the following comments in regards to Chapter 245, relating to the administration of the storage tank and spill prevention program.

PCIC thanks the Department for their reconsideration of considerable fee increases, which were excised from the current proposed regulation. As you likely know, chemical manufacturers in Pennsylvania have several thousand storage tanks, primarily aboveground storage tanks. The withdrawn fee increases have saved Pennsylvania's chemical industry from an exponential jump in operating costs.

There are other issues that PCIC would like to address in our comments:

- **Changes to the definition of "regulated substance" will add to the administrative burden of tank owners.** By specifying 34 PA Code Chapter 323 under the definition of regulated substances in Section 245.1, these regulations introduce a number of potential dangers for both industry and DEP. This incorporation by reference will place a substantial administrative burden on facilities by requiring the additional reporting of hundreds of regulated substances, and will effectively remove the control this list of regulated substances from DEP and EQB.

34 PA Code Chapter 323 is not intended as a method of regulating materials found in storage tanks. It was drafted as a method for facilities to inform employees about hazardous substances found at the workplace. By adopting this list by reference, DEP is effectively removing the ability to make any additions or subtractions. The only way this list could be changed was through a regulatory change initiated by the Department of Labor and Industry, and considering that the function of this list is not

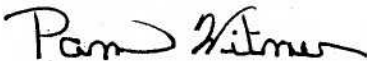
for environmental purposes, DEP's concerns will not be considered highest priority when it is amended.

In addition to this concern, PCIC is concerned that the relative obscurity and age of this list will prove to be difficult for tank owners to find. PCIC requests that the reference to 34 PA Code Chapter 323 be removed and that any list of regulated substances be published in full in the regulations to make the reporting requirements more transparent and to make the list amendable by DEP.

- **The 1-pound reportable quantity is both arbitrary and unmanageable.** This requirement under the definition of regulated substance in Section 245.1 regulates many chemicals which are readily found around the typical home. By assigning a minimum requirement, DEP is effectively regulating all containers of driveway sealant, linseed oil and vinegar with quantities over one pound. We are fairly certain that it is not the Department's intention to regulate substances found in homes, and ask that this definition be reconsidered to a much larger quantity that would be more commonly held by facilities that employ storage tanks.
- **Three-year installation requirements for alarm systems and emergency containment structures do not take financial and logistical considerations into account.** The requirements under 245.541(e) for high level alarm with a cut-off device installation within three years and for emergency containment structures under 245.542(d) within three years or before the next scheduled out-of-service inspection will be difficult for industry to achieve. These changes must be properly planned and engineered, and a contractor must be employed to install them, much of which is completely out of the hands of a manufacturer. This process could stretch over the span of several years. And with the proposed increase in the number of regulated substances, these requirements could also demand a large capital outlay. PCIC recommends that the language be amended in order to give industry flexibility to fulfill this requirement.

We at PCIC are always willing to discuss our comments with DEP personally, if needed. Thank you for your consideration, and we will look forward working with the Department to make these regulations more suitable for Pennsylvania's chemical industry.

Sincerely,



Pam Witmer
PCIC President

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Cc: The Honorable William Adolph, Pennsylvania House of Representatives

The Honorable Bud George, Pennsylvania House of Representatives

The Honorable Mary Jo White, Pennsylvania Senate

The Honorable Ray Musto, Pennsylvania Senate

The Independent Regulatory Review Commission

PCIC Board of Directors

PCIC Public Policy and Advocacy Committee