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835 Hamilton Street, Suite 150 • Allentown, PA 18101 • www.TalenEnergy.com



March 26, 2018

Talen Energy

Comments on the Proposed Rulemaking under PA Bulletin Doc. No. 18-289

Administration of the Storage Tank and Spill Prevention Program in 25 PA Code Ch. 245

Dear Mr. Shiffer,

Talen Energy owns the following fifteen electric generating facilities and a tank farm which will be affected by the proposed rulemaking:

- Susquehanna Steam Electric Station, a 2,600 MW facility
- Martins Creek Steam Electric Station, a 1,700 MW facility
- Lower Mount Bethel Energy, a 600 MW facility
- Martins Creek Steam Electric Station, a 1,690 MW facility
- Brunner Island Steam Electric Station, a 1,411 MW facility
- Montour Steam Electric Station, a 1,500 MW facility
- 9 Combustion Turbine Generation Sites across the state (PA CTGs)
- Martins Creek Interstate Energy Company Tank Farm

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We understand and appreciate the Department’s intent to strengthen the operation and maintenance of the Storage Tank and Spill Prevention Program. However, we also have concerns with some of the proposed language and definitions, and are providing the following comments and recommendations:

1. Because **Existing Emergency Diesel Generator (“EDG”) Underground Storage Tank (“UST”) systems subject to Nuclear Regulatory Commission (NRC) regulations are NOT exempt from the appropriate and pertinent federal UST regulations, PADEP should continue the policy of exempting these tanks from State regulations that would be redundant with NRC requirements.**

Talen has reviewed the 2015 federal changes to the Underground Storage Tank Program under 40 C.F.R. Part 280 and the PADEP Proposed Rulemaking change to 25 PA Code 245. The 2015 revised Federal requirements, for existing nuclear EDG UST regulated by the USNRC under 10 CFR50, are only required to comply with Sub-Part F of the rule. Essentially, all EPA did in the final rule was replace the term “deferral” with the term “partial exclusion” and exempt these tank systems from the newly promulgated requirements. The Agency did not impose any new obligations on these tank systems in the 2015 UST final rule. This should correlate to the EDG UST systems at nuclear facilities being subjected to only Subchapter of the PA Code 245 regulations. The PADEP appears to have misinterpreted the newly revised Federal Rule to include the existing EDG USTs in additional subparts. Talen proposes that the

Proposed Rulemaking clearly distinguish the existing EDG USTs at nuclear generating facilities be subject to only PA 245 Subchapter D. If the proposed rules were applied as currently written in the Proposed Rulemaking, the nuclear stations will be dually-regulated by two separate agencies (NRC and the PADEP) under separate regulatory programs. This proposed dual regulation would put an unnecessary and financial burden on the nuclear generation sites.

2. If NRC regulated EDG USTs are not exempted from State regulation, the requirements for existing facilities should not go beyond the NRC requirements.

In addition to the misinterpretation and the dual-regulatory concern mentioned above, Talen specifically has concerns with proposed changes in §245.422, if they were subject to the Proposed Rulemaking as currently drafted. Talen notes that the regulations under §245.422 would require Cathodic Protection (“CP”) upgrades of their EDG USTs to meet the National Association of Corrosion Engineers (“NACE”) CP performance criteria or other industry standard. While Talen’s CP systems for their EDG USTs are currently installed and maintained, meeting the protection requirements in 10CFR50, it would require a significant investment to upgrade their systems to be in compliance with the proposed regulations, regardless of its current site-specific design, testing practices, maintenance records, or past performance. Talen is recommending, similar to the comment above, that the State clarify that existing EDG USTs at nuclear generating facilities remain excluded from existing EDG USTs requirements, and if not, then the requirements should not require more than the existing NRC or EPA requirements.

3. The definition of release is too broad with no de minimis level and results in unnecessary and burdensome reporting and response activities for small, incidental and inconsequential releases (e.g., drips)

245.1 (Definitions) & 245.305 - By removing the term “reportable release” and re-defining “release” the Department is essentially stating the case that tank owners and operators are not capable of determining what releases constitutes an immediate threat to surface water, groundwater, bedrock, soil or sediment”. Small leaks within a secondary containment structure (e.g. inside a building) and are cleaned up within a short period of time do not pose an immediate threat of contamination to soils, subsurface soils, surface water, or groundwater and should not be deemed a release subject to reporting, site characterization or remedial actions. Talen recommends retaining the current definitions or to ensure the language properly differentiates between the requirements for large and small releases.

4. The word “suspected” should be added to the last sentence in §304(a)

If the regulation is changing from addressing “indications of a release” to “suspected releases”, then, consistent with the rest of the paragraph, the last sentence should read, “An indication of a suspected release...”

5. § 245.542 should refer to “liquid water” not “water”

§245.542 - Subsection (f) is proposed to be amended to require that any water, not only stormwater, be removed from the emergency containment area as soon as possible. The regulation should be amended to refer to liquid water. Snow, which does not take up the same equivalent volume as liquid water, is not easily removed.

6. Inspection frequencies for small AST under §245.616 should remain as they are under the current regulation.

Increasing the frequency of small AST inspections is arbitrary and unnecessary when industry tank standards (e.g., STI or API) *already* provide a sound scientific and engineering basis for tank inspection schedules under the existing regulation.

If you have any questions or concerns regarding these comments, please do not hesitate to contact me at (410) 787-5532 or Ben Wilburn at (610) 601-0320 or by e-mail benjamin.wilburn@talenergy.com. We look forward to working with the PADEP in the future.

Respectfully
submitted,

A handwritten signature in black ink, appearing to read "Thomas Weissinger", with a long horizontal flourish extending to the right.

Thomas Weissinger
Sr. Director, Environmental Affairs