



Virginia Petroleum, Convenience and Grocery Association

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May 1, 2017

Lisa Dewey
Office of Spill Response and Remediation
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Thank you for allowing VPCGA the opportunity to comment on the proposed Underground Storage Tank Rules. We also appreciate the Department's decision to extend the comment period on this rule until May 1, to allow the membership to review this initiative in detail.

The Federal UST rule permits implementation of this rule thru EPA or by recognized industry standards. There are currently only two industry standards, Petroleum Equipment Institute (PEI) RP-900 for walk through inspections, and PEI RP-1200 for testing. Each is more burdensome than the EPA amendments. We are concerned that if the PEI standards are the only ones found acceptable, an undue administrative burden may be imposed on our membership. Further, both of the aforementioned PEI standards are currently under revision. Our national association, Petroleum Marketers Association of America (PMAA) sits on both the RP-900 Committee and the RP-1200 Committee and has proposed changes we believe would make the regulations more flexible and less burdensome for marketers. The key areas PMAA proposed are below. Since there are two years remaining before these changes are mandated, we believe there is no reason to rush their adoption.

VPCGA also believes that the Department should take advantage of all state deadline flexibility in the 2015 UST amendments so that small business petroleum marketers are able to comply with this complicated and expensive regulatory framework in the most orderly and cost effective manner possible.

VPCGA urges that any references to PEI standards in Virginia regulations should state that they "may" be used and not "shall" be used to implement the EPA UST amendments.

STATE PROGRAM IMPLEMENTATION

Virginia Neighbors Serving Neighbors

1. 30-Day Walkthrough Inspections – The only national industry technical standard to perform UST system walkthrough inspections is PEI RP-900. The RP-900 walkthrough requirements are more frequent and extensive than the EPA requirements. First, PEI RP-900 calls for weekly walkthrough inspections while the EPA calls for monthly walkthrough inspections (which we support). VPCGA requests that Virginia regulations do not expand walkthrough requirements beyond the provisions specifically required in the 2015 EPA UST amendments. The EPA walkthrough provisions were developed in close consultation with small business petroleum marketers and represent a consensus on how to adequately prevent potential releases into the environment while keeping retail employees safe from physical injury and overall compliance costs down. If the expansive and overly broad RP-900 walkthrough provisions are adopted, small business tank owners represented by VPCGA would be forced to hire costly private third party vendors to do the inspections which otherwise would be performed by in-house Class A, B or C employees. In addition, third party inspection vendors are often involved in UST equipment sales and installation, creating a potential conflict of interest that could drive up maintenance costs and undermine the walkthrough inspection process itself. The Department should adopt the EPA walkthrough inspection requirements and not incorporate PEI RP-900 into Virginia regulations as affirmative requirements.

2. Containment Sump Testing - The EPA regulations require integrity testing on containment sumps used for interstitial monitoring of pipes. PEI RP-1200 is the only performance standard extant for containment sump testing. Since it is impossible to make containment sumps airtight, pressure testing to check for leaks is not a viable option. Hydraulic testing is the only practical and accurate method to ensure containment sumps are liquid tight. The hydraulic test method in RP-1200 requires containment sump to be filled with water to the top and above the penetration points in the sump wall. VPCGA finds this testing to be problematic due cost, the excessive amount of hazardous waste water generated by the test, and the potential risk of water intrusion into piping interstice should the penetration points in the sump wall fail to be liquid tight. To prepare a containment sump for testing according to RP-1200 the following steps must be taken:

1. Clean any dirt, debris or liquid out of the sump.
2. Inspect the sump for cracks or damage.
3. Test boots or secondary containment isolation fittings must be installed on all double-wall piping penetrations in tank sump and under dispenser sumps as well. (These types of boots and fittings are required for hydraulic testing. However they were not added during original installation of the UST system because sumps were not designed to be tested in this way).
4. Fill containment sump area to the top of the sump wall with test fluid and check for leaks.
5. Properly remove, handle and dispose of hazardous test fluid.

The cost for a repair of an isolation grommet (if they can be used) is about \$600 - \$800. A repair grommet if needed for a tank sump costs an additional \$500. Under dispenser containment (UDC) sump replacement grommets cost between \$3,200 - \$4,800 per sump. If the dispenser must be removed to gain access to the sump, installation costs for these grommets can range from \$1,000 to \$2,000 per dispenser. In a worst case scenario where isolation grommets cannot be used on sumps to prepare for hydraulic testing, the entire sump may have to be replaced at a

cost of \$10,000 per dispenser. These costs are extremely burdensome for Virginia's small business petroleum marketers and would likely force a good number of them out of business.

A better sump test method that is far less costly to small business tank owners, "equally protective of the environment" and "no less stringent than the federal regulations" is to test containment sumps only to the level where a liquid sensor audible alarm is engaged that automatically triggers a positive shut down of the product turbine. California and Idaho are among states that recognize this alternative test method. The U.S. EPA OUST is currently considering whether to issue agency guidance on the alternative test method as well. The alternative test method is superior to RP-1200 because it generates far less hazardous waste water, actuates a positive shutdown of the system which stops a potential leak before it reaches the penetration points and sump cover where it could be released into the environment. In this way, the alternative containment sump test method is actually more protective of the environment than RP-1200.

VPCGA Supports the U.S. EPA Clarifications on Several Key Provisions in the 2015 UST Amendments that Offer Small Business Petroleum Marketers Cost Saving Regulatory Flexibility.

1. Under Dispenser Containment Sump Testing – Under the federal UST amendments only sumps that are used for interstitial monitoring of piping are required to be tested once every three years for integrity. The EPA has clarified that under dispenser containment sumps do not require testing if they are not connected to the interstitial monitoring system for piping. One way to remove UDC from the interstitial monitoring system leading back to the tank sump is to reconfigure piping so that it bypasses UDC. This is typically done with a small jumper hose that runs from one secondary termination grommet across the UDC and connects to the pipe on the other side.

This would allow any fuel leaked from piping to bypass UDC and flow directly to the tank sump where the sensor alarm is located. VPCGA urges the Department to adopt this method into the state regulations as equally protective of the environment while avoiding significant regulatory burden for small businesses that would otherwise be faced with testing as many as 9 sumps per site at an extraordinary cost.

2. Under Dispenser Containment Requirement - With regard to under dispenser containment, the EPA has clarified that UDC is *only required* when ALL of the equipment under the dispenser must be replaced down to the vertical pipe, not when any one of these components are replaced, and we believe that that standard should be adopted for Virginia as well.

3. Overfill Inspection Equipment Inspection – It is well known that overfill protection equipment that is otherwise in perfect working order, can become seized in place and impossible to remove for inspection without destroying most components. Requiring removal for visual inspection of this equipment would amount to a replacement mandate in most cases. Instead, VPCGA believes that the Department should allow for in-place visual inspection of these components for 3 years provided that the system is equipped with an automatic tank gauge set at 95%, and connected to an audible alarm sufficient to immediately alert the driver to terminate

product drop. The three year delay in the removal for inspection requirement would provide the time needed for an orderly replacement of this equipment.

4. Interstitial Monitoring for Pipes – The 2005 Energy Act requires tank owners using secondarily contained piping to include interstitial monitoring. States adopted the provisions of the 2005 Energy Act at different times. The EPA has clarified that tank owners with UST systems equipped with interstitial monitoring *before* the date states adopted the provisions of the 2005 Energy Act could discontinue interstitial monitoring in favor of annual precision line testing. This essentially treats piping as single walled rather than double walled for purposes of the interstitial monitoring requirements. The EPA made this clarification because it does not believe that tank owners who upgraded their piping *before* it was required to do so should be punished while other tank owners who did not be rewarded for their inaction. In this way, tank owners will be more willing to make upgrades voluntarily in the future if they know there will not be any unforeseen regulatory burdens down the line as a result of those upgrades. VPCGA asks the Department to adopt this clarification as well.

Thank you for your consideration of VPCGA's comments on this very important issue to small business petroleum marketers across the Commonwealth of Virginia.

Sincerely,

A handwritten signature in dark ink, appearing to read "Michael J. O'Connor", written in a cursive style.

Michael J. O'Connor