

SUBJECT: *EPA UST Regulations*

ISSUE: *Final UST Rules*

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DATE: *July 17, 2015*

U.S. EPA ISSUES FINAL UNDERGROUND STORAGE TANK REQUIREMENTS:

I. BACKGROUND

The U.S. EPA published the final UST system testing and inspection rule on July 15, 2015. The PMAA UST Task Force worked closely with the Small Business Administration (SBA), The White House Office of Management and Budget (OMB), key members of Congress as well as EPA's Office of Underground Storage Tanks to reduce compliance costs on tank owners to the greatest extent possible. The PMAA UST Task force was successful in this effort reducing annual costs of the final rule from \$6,966 per site to \$2,377 per site. Overall, total annual compliance costs on the industry as a whole were reduced from \$1.5 billion to \$530 million as a result of PMAA's efforts.

PMAA was successful in achieving three of its primary goals aimed at reducing compliance costs imposed by the rule. First, PMAA convinced the EPA to drop regularly scheduled testing of the interstitial spaces of UST secondary containment equipment. PMAA's second goal of delaying implementation of testing and inspection requirements was also successful. PMAA was able to delay these requirements for three years instead of the EPA's proposed 90 day implementation schedule. PMAA also met its third primary goal to reduce the frequency of sump inspections from 30 days to once per year. PMAA achieved many additional cost reductions as well. PMAA's effort on behalf of tank owners was unparalleled in the industry.

While PMAA is pleased with the gains made, more work must be accomplished to further reduce compliance costs and burdens imposed by the final rule. First, the PMAA UST Task Force will present to the EPA a list of questions seeking clarification on a number of provisions in the final rule. The Task Force believes these clarifications will result in added annual cost savings for tank owners. Second, the PMAA UST Task force will meet with the EPA to discuss ways to further reduce costs associated with sump testing scheduled for once every three years under the final rule. PMAA believes the current test method for sumps is seriously flawed and unnecessarily expensive. Due to these ongoing efforts definitive compliance guidance is not available at this time. However, given the three year

implementation schedule for most provisions under the rule there is plenty of time to get clarifications and changes needed for a compliance guideline.

II. REGULATORY REQUIREMENTS OF THE FINAL RULE

Adoption of Existing EPA Operator Training, Secondary Containment and Delivery Prohibition

Guidelines into Regulations – The Energy Policy Act of 2005 required states receiving LUST money from the EPA to meet certain guidelines. The EPA established those guidelines which include; UST inspections as well as operator training, secondary containment, and delivery prohibition requirements. These guidelines were adopted by states and have been requirements for marketers to follow for a number of years now. The final UST rule simply adopts the EPA guidelines as regulatory requirements. There is a procedural change that will not affect tank owners who already must comply with these requirements on the state level.

Walk Through Inspections – The final rule requires tank owners to conduct UST system walk through inspections on the following equipment: spill buckets, fill caps and check release detection equipment operability. Once per year, tank owners must check sump areas for damage, release or leaks.

Spill Prevention Equipment Tests - The final rule requires spill prevention equipment testing once every three years. The final rule does not require periodic testing of double walled spill containment equipment if the integrity of both walls is periodically monitored.

Overfill Prevention Equipment Inspections – The final rule requires testing and operation inspection of overfill protection equipment once every three years. Tank owners must inspect automatic shut-off devices, flow restrictors and alarms. The test requires a demonstration that the equipment will operate or activate properly.

Secondary Containment Testing – The final requires testing once every three years of all sumps that are used for secondary containment and interstitial monitoring of double walled pipes and/or other equipment including under dispenser containment. The test must show that the sump is water or vacuum pressure tight. Double walled sumps used for interstitial monitoring of piping are not required to be tested if both walls of the containment sump are periodically monitored.

Release Detection Equipment Tests – The final rule requires annual operational and maintenance tests on electronic and mechanical components of release detection equipment to ensure proper operation. Owners must: check ATG systems and other controllers, test alarm, verify system configuration, test battery back-up, inspect probes and sensors, automatic line leak detectors, vacuum pumps and pressure gages, as well as hand held electronic sampling equipment.

E-15 Compatibility Requirements – The final rule adopts previously adopted EPA guidelines that require tank owners to demonstrate UST system compatibility with ethanol gasoline blends greater than E-10 or diesel fuel blends greater than B-20 by; certification and listing of equipment by a nationally recognized testing laboratory; equipment manufacturer approval; or an alternative method developed by a state UST authority. Tank owners who plan to place fuel blends greater than E-10 or B-20 in a UST system

must first provide 30-day prior notice to state UST program authorities. This is purely a “housekeeping” measure by the EPA and does not change the E-15 compatibility requirements which PMAA believes is inadequate to protect tank owners from liability in the event of a release.

Under Dispenser Containment – The final rule requires the installation of double walled under dispenser containment any time the dispenser and all the equipment used to connect it to the vertical riser pipe from the UST system is replaced.

Statistical Inventory Reconciliation – The final rule adds statistical inventory reconciliation as an approved method of leak detection. The final rule also provides performance standards that SIR methods must meet.

Vent Line Flow Restrictors – The final rule requires ball float valves to be tested periodically for operability. The final bans the installation of new ball float valves. Existing ball float valves may continue in service until replaced.

Internal Tank Linings – The final rule requires tank owners to permanently close USTs that use internal tank liners as the sole method of corrosion protection when an inspection determines the lining no longer is performing to original design specifications and cannot be repaired. Lining must be inspected within ten years after lining and every five years thereafter.

Change of Ownership Notification – The final rule requires tank owners to provide notice to state regulatory authorities anytime ownership of a tank system is changed. The final rule provides a new notification form entitled: *Notification of Ownership Change for Underground Storage Tanks*.

III. COMPLIANCE DATES

There are a number of compliance dates that are required under the rule.

October 13, 2015 - Provisions including, notification of tank ownership, elimination of new installation of float ball valves, under dispenser containment requirement upon installation of new dispenser and all of its underground components, statistical inventory release are effective October 13, 2015 under the federal rules.

October 13, 2018 – Provisions including, the first 30 day walk-through inspection, spill equipment test, overfill equipment inspection, secondary containment test, and release detection equipment test must be completed no later than October 18, 2018. Once the first 30 day walk-through inspection is completed, subsequent inspections must occur every 30 days thereafter. Once the first sump inspection is performed by October 13, 2018, subsequent sump inspections must occur once every year thereafter. Once the first release detection test is completed by October 13, 2018, subsequent testing must occur once every year thereafter.

Compliance in EPA Approved State UST Programs – Currently, 38 states have EPA approved UST programs. These states have their own UST program authority and regulations and must adopt the final rule in order to receive annual funding from the EPA. Some states adopt EPA regulations automatically

by reference, some by rulemaking and others by legislative approval. The EPA gives these states three years to adopt the requirements under the final rule. Therefore, the October 13, 2015 compliance date may not apply in some of these states depending on how long it takes to adopt the final rule into state regulations. These states will however be required to meet the October 13, 2018 implementation deadline or risk losing program authority from the EPA.

Compliance in States Without EPA Approved Programs - In the 12 states that currently do not have program approval, the EPA UST regulations apply directly. Those states include; *Alaska, Arizona, California, Florida, Illinois, Kentucky, Michigan, New Jersey, New York, Ohio, Wisconsin and Wyoming*. Therefore, the October 13, 2015 compliance date applies in these states as well as the October 13, 2018 deadline for reoccurring testing and inspections.

IV. BOTTOM LINE:

PMAA will provide compliance information for the October 13, 2015 compliance deadline within the next 30-days once clarification on certain provisions is obtained from the EPA. At this time, PEI RP-1200 is the only standard recognized by the EPA to implement the requirements of the rule. Petroleum marketers must follow this standard when conducting inspections and testing. PMAA will provide notification should any new standards be developed. State program authorities may also adopt methods to implement the rule that differ from PEI RP-1200. Marketers are encouraged to work with their state programs to come up with alternative methods that are less burdensome and costly but equally protective of the environment.