

# Federal Underground Storage Tank Rule Revisions: U.S. Environmental Protection Agency is Stated to Have Denied Extension Request



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07/31/2018

The Petroleum Marketers Association of America (“PMAA”) in a July 27th memorandum stated that the United States Environmental Protection Agency (“EPA”) denied a request that had been made for a delay in the compliance deadline for the 2015 federal underground storage tank (“UST”) rule revisions (“Rule Revisions”).

Several members of the United States Senate and House of Representatives and trade organizations such as PMAA had asked the Administrator of EPA for a compliance deadline extension for certain provisions of the Rule Revisions.

The Arkansas Oil Marketers Association is a state chapter of PMAA.

By way of background, EPA published certain revisions to the federal petroleum UST regulations in 2015. These were the first comprehensive revisions of the federal UST rules since 1988.

The changes included:

- added secondary containment requirements for new and replaced USTs and piping;
- added operator training requirement;
- added periodic operation and maintenance requirements for UST systems;
- added requirements to ensure UST system capability before storing certain biofuel blends;
- removed past deferrals for emergency generator tanks, field construction tanks, and airport hydrant systems; and
- updated codes of practice.

The states that have delegation of the federal petroleum UST programs (which include Arkansas) have three years to reapply in order to retain their delegated status.

Legislative members and the trade associations argued that portions of the 2015 Rule Revisions imposed financial or strategic burdens on fuel retailers, particularly small businesses, by requiring excessive labor and infrastructure investments over a short period of time. A potential shortage of relevant contractors to implement the requirements was also noted.

PMAA’s July 27th memorandum states that EPA denied the request for a three-year compliance deadline extension. The federal agency is stated to have denied the request because of its belief that it had already

provided significant cost saving concessions and flexibility. Such concessions/flexibility were stated to include an initial three-year compliance deadline during the original rulemaking process.

EPA is stated to have further contended that an additional three-year extension would generate lawsuits by a number of environmental groups and state UST program authorities. Further, it said a deadline extension would create an unfair playing field for UST owners because it would only apply to the 12 states without program authority that are bound by federal regulations.

EPA is stated to have indicated that while it will not extend the compliance deadline, it will delay its enforcement in the event there is a shortage of contractors or equipment.

The federal agency is also stated to have indicated that enforcement discretion would be given to those UST owners showing a "good faith effort" to comply by the deadline but are unable to do so due to equipment or contractor shortage. Evidence of a good faith effort is stated to include having a contract for compliance work in place by the October 13, 2018, deadline.