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December 15, 2017

The Honorable Scott Pruitt
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Re: Underground Storage Tank Regulations

Dear Administrator Pruitt:

The Petroleum Marketers Association of America (PMAA) respectfully request a delay from testing requirements for containment sumps, spill buckets, and overfill prevention devices to October 13, 2024. These testing requirements were included in the EPA's Office of Underground Storage Tanks (OUST) published regulatory amendments to the federal underground storage tank regulations on July 15, 2015 (Revising Underground Storage Tank Regulations, 80 Fed. Reg. 41566 (July 15, 2015)). The amendments add to the 1988 federal underground storage tank (UST) regulations by increasing requirements for operating and maintaining underground storage tank (UST) systems.

Background

PMAA is a federation of 46 state and regional trade associations representing approximately 8,000 independent petroleum marketers nationwide. PMAA companies own 60,000 retail fuel outlets such as gas stations, convenience stores and truck stops. Additionally, these companies supply motor fuels to 40,000 independently owned retail outlets and heating oil to over eight million homes and businesses. PMAA members are engaged in the transport, storage and sale of petroleum products including gasoline, diesel fuels, kerosene, jet fuel, aviation gasoline, propane, racing fuel, lubricating oils, and home heating oil at both the wholesale and retail level. PMAA members are the primary conduit for bringing petroleum products from the terminal rack to retail locations and represent a vital and indispensable link in the nation's petroleum distribution chain.

The majority of PMAA marketers are small businesses serving homes, farms, business and industry. When Small Business Administration guidelines are applied to the PMAA membership, many marketers fall within SBA jurisdiction.

Comments

PMAA is seeking to delay the compliance deadline in the 2015 underground storage tank (UST) amendments for containment sump, spill bucket and overfill prevention equipment operability testing. The federal UST amendments require operability testing of these components once every three years. State underground storage tank administrators are largely responsible for adopting conforming regulations implementing the 2015

federal amendments and re-apply for state program approval no later than October 13, 2018. Under the revised state programs, UST owners and operators will most likely be required to conduct the initial testing on these components no later than three years from the date of state implementation of conforming regulations. This means that the last possible state compliance deadline for initial testing must occur no later than October 13, 2021. **We are seeking to extend the last possible compliance deadline for initial testing to no later than October 13, 2024. This extension would give tank owners and operators an additional three years to comply with the initial operability test requirement for containment sumps, spill buckets and overfill prevention equipment.**

Tank owners and operators are required to test containment sumps and spill buckets, to ensure the equipment is liquid tight by using vacuum, pressure, or liquid test methods. The test methods must be in accordance with requirements developed by the manufacturer; a code of practice developed by a nationally recognized association or independent testing laboratory; or requirements determined by the implementing agency to be no less protective of human health and the environment than the federal regulations. According to the EPA, of the three criteria listed above, currently, only one code of practice exists that describes a methodology for tank owners and operators to test their equipment. Manufacturer testing protocols for existing containment sumps and spill buckets are limited.

We believe the deadline extension for initial testing is justified for several reasons. First, tank owners and operators of older tank systems have equipment that was not installed and/or designed in a way to be tested. The owners and operators of these systems need additional time to prepare and upgrade, as needed, the equipment to be tested. At the time existing equipment was manufactured, re-occurring testing using a vacuum, pressure, or liquid methods was not required. As a result, much of the existing equipment was not engineered by manufacturers with these new testing protocols in mind. Second, several of our members have raised concerns regarding the availability of contractors to get the work completed. They have had trouble getting timely responses to requests for testing proposals. Third, many tank owners and operators are expected to have significant difficulty meeting the current testing deadline because there are limited test methods available that are suitable for the differing array of containment sumps, spill buckets and overfill prevention equipment currently in use. The currently available test method will also generate a significant volume of petroleum contaminated test water that must be handled and disposed of as a hazardous waste. Ironically, the volume of contaminated water generated by liquid testing nationwide will likely surpass the volume of petroleum released through leaking containment sumps and spill buckets.

The final area of concern within EPA's 2015 rule is with EPA's periodic inspection requirement for overfill prevention equipment. Overfill prevention equipment is designed to prevent the overfilling of an underground storage tank during delivery of product by cargo tank transport trucks. The 2015 UST amendments require inspection of overfill prevention equipment once every three years to ensure it is functioning properly. The required inspections be conducted using; manufacturer recommendations, a code of practice developed by a nationally recognized association or independent testing laboratory; or requirements determined by the implementing agency to be no less protective of human health and the environment than federal requirements.

For the overwhelming majority of overfill prevention devices, no manufacturer inspection recommendations exist, and the one available code of practice requires the removal of the overfill prevention device to facilitate the inspection. Removal of existing overfill prevention equipment that has not been previously removed or tested may damage the device beyond repair. Extending the compliance deadline to October 2024 would allow tank owners and operators more time to get this equipment removed and potentially replaced. After this time, new removable overfill equipment can be installed to facilitate the future inspections.

Conclusion

The lack of suitable test methods, available to tank owners and operators together with the lack of equipment designed to be tested and inspected in the required manner, will take time to correct. We believe that delaying the testing requirements for containment sumps, spill buckets, and overfill prevention equipment until October 13, 2024 will provide equipment manufacturers the opportunity to develop more equipment options engineered with these tests in mind. Additionally, equipment installed in recent years has not been required to be tested which makes it more difficult to comply with the newly adopted testing requirements. We believe extending the compliance deadline is justified to allow tank owners and operators time to acquire the capital needed to pay for the significant compliance costs associated with initial testing. It will also allow tank owners and operators the opportunity to extend the useful life of their existing equipment while preparing for the equipment upgrades needed to comply with the 2015 UST testing and inspection requirements.

Should you have any questions, please contact PMAA Regulatory Counsel Mark Morgan at mmorgan@pmaa.org or call 202-364-6767.

Sincerely,

A handwritten signature in black ink, appearing to read "Rob Underwood". The signature is fluid and cursive, with a long horizontal stroke at the end.

Rob Underwood
PMAA President