

REGULATORY REVIEW

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Overview of Today's Presentation

- Underground Storage Tanks
- Stage II Vapor Recovery Elimination
- ULSD Corrosion
- E-15
- Aboveground Storage Tanks Vapor Recovery
- Other
 - SPCC Compliance
 - Weights & Measures
 - Hazard Communication
- *Not Enough Time!!*



Global
Debt Crisis

U.S.
Economy

Jobs, Jobs

Taxes

2012
Elections

PEI 1-on-1

- PEI 1-on-1 next to PEI Registration Counter at McCormick Place
 - Today
 - 1:00 p.m. : Safety Audit
 - 2:00 p.m. : Electric Cars
 - Tomorrow
 - 1:00 p.m. : UST Systems with Mark Barolo, EPA OUST
 - 3:00 p.m. : UST Compatibility/E-15
 - 4:00 p.m. : Bob Renkes

The Tanks Rulemaking is Coming!



The Tanks Rulemaking is Coming!

- First Update of Technical Standards Since 1988 Promulgation
 - Update Regs to acknowledge 1998 deadline has passed
 - Update tank and piping sections to reflect new technologies
 - Technical Corrections – such as update standards and correct typos
 - Address alternative fuels and compatibility

The Tanks Rulemaking is Coming!

- Multi-Year Process by EPA OUST
 - Stakeholder consultation process
 - “Short list” of issues developed
 - Regulatory calculation
 - What realistically can get done?
 - Feds or the States?
 - No statutory deadline or court mandate
 - EPA budget
 - Rule writing experience in EPA OUST
 - Significant back-up needed for Administrative Procedures Act (APA) Rulemaking

The Tanks Rulemaking is Coming!

- Administrative Procedures Act (APA) Rulemaking
 - OMB clearance
 - Produced little change to actual, proposed rulemaking language
 - Clarification of issues in preamble language
 - Mid- to late-October publication for public comment
 - 90-day public comment period
 - Hearings?
 - Final Rule
 - 4th Quarter 2012

The Tanks Rulemaking is Coming!

- **Release Prevention**
 - Operation and maintenance (O&M) — Includes overfill functionality testing, walk through checks, spill bucket testing and integrity testing for interstitial areas
 - Ball floats — Eliminate flow restrictors in vent lines as overfill device on new systems and when overfill is replaced
 - Address repairs:
 - Repairs and secondary containment — If primary or secondary wall is fixed, must verify structural integrity of interstitial space before returning tank/piping to service
 - Revise repairs section to include non-release repairs and include requirements testing. This will require also re-evaluating repair definition and disassociating repair from release

The Tanks Rulemaking is Coming!

- **Release Detection**

- O&M — Walk through checks and periodic operational checks and periodic testing (automatic tank gauge, probes, sensors, line leak detectors and alarms)
- Incorporate new technologies with applicable performance standards — Statistical Inventory Reconciliation (SIR), Continuous In-Tank Leak Detection System (CITLDS)
- Address interstitial alarms with regard to 40 CFR 280.50 "Reporting of Suspected Releases"
- Phase out groundwater and vapor monitoring as leak detection methods

The Tanks Rulemaking is Coming!

- **Other**

- Update regulations to acknowledge 1998 deadline has passed
- Require closure of lined USTs that fail periodic inspection and cannot be repaired
- Update tank, piping sections for new technologies — Include clad and jacketed tanks, flexible piping
- Notification of ownership changes — Require revised notification forms when ownership changes at the facility
- Technical corrections such as update standards and correct typos
- *Address alternative fuels and compatibility*

The Tanks Rulemaking is Coming!

- **Deferrals**

- Exclude USTs containing radioactive substances.
- Exclude emergency generator USTs at nuclear power generation facilities regulated by NRC
- Fully regulate emergency generator USTs
- Regulate airport hydrant systems with alternate release detection requirements
- Regulate field-constructed USTs with alternate release detection requirements
- Regulate wastewater treatment tanks

Tanks Rulemaking is Coming!

- High-Throughput Facilities
 - EPA will “punt”
 - EPA developing reference manual on release detection issues associated with high-throughput facilities
 - What leak detection methods are/are not working
 - Confirmation of compliance?
 - Regulatory changes needed?

USTs-Energy Policy Act

- Cash-Strapped States
- August 8, 2012 - States ensure all three classes of operators are trained according to state-specific training requirements
 - http://astswmo.org/Files/Policies_and_Publications/Tanks/2011.06_Operator_Training_Resource_Guide.pdf

USTs-National Clean Up Backlog

- EPA OUST Worked with 14 States to Analyze Backlog of UST Clean Ups
 - CA, FL, IL, MI, MT, NE, NH, NJ, NY, NC, PA, SC, TX and WA
- 10 States Account for 61% of National Backlog
- Remaining Four States Add 5%

USTs-National Clean Up Backlog

- Age of Release
 - Nearly 50% of Backlog Releases Older Than 15 Years
- Stage of Clean Up
- Media Contamination
- Clean Up Financing
 - Reducing Costs
 - Streamlining Oversight
 - Alternative or Integrated Sources of Financing
 - Position Responsible Parties to Act More Promptly

USTs-National Clean Up Backlog

- Release Priority
 - Surprised by Number of High-Priority Releases Not Started
- Multi-Site Approaches
 - Leak Clusters
- Data Management
 - Better Quality Control by States

Stage II Elimination

- AFT! But
- EPA's Proposal for Determining "Widespread Use" of ORVR
 - Touted by White House as part of Administration's efforts to remove unnecessary or redundant regs
 - Gas dispenser-based vapor control requirements are redundant
 - \$88 million cost savings
- Personal View – Proposal Needs to Be Changed to Achieve Objectives

Stage II Elimination

- ORVR Will Be in “Widespread Use” on June 30, 2013, Permitting Waiver to Eliminate Stage II
 - EPA wants to require States to submit SIP revisions for waiver to take effect
 - Waiver should be self-effective
 - Costs to cash-strapped States to prepare and submit SIP revision
 - Permit new retail outlets in non-attainment areas to forego Stage II installation during interim

Stage II Elimination

- Ozone Transport Region
 - EPA Interpretation of Section 184(b)(2) of the Clean Air Act
 - All areas in OTR must implement Stage II or measures that achieve “comparable” emissions reductions
 - Measures “not already prescribed” under the Clean Air Act can be considered “comparable” (ORVR under Section 202(a)(6))
 - ORVR as an emissions reduction measure should be considered “comparable” to Stage II

Stage II Elimination

- Huh?
 - Technology (ORVR) Designed to Replace Stage II is Not Comparable?
 - Congress Intended Measures Already Not in Place
 - ORVR Intended to Replace, Not Supplement, Stage II
 - 15, 937 Retail Outlets in OTR
 - 59% of Stage II-equipped outlets outside of CA
 - \$52.3 million in cost savings

Stage II Elimination

- State Enforcement Discretion
- PEI Recommended Practice on Stage II Removal
- Costs and Savings
 - Decommissioning (estimates from NY and FL)
 - \$250-\$400 per nozzle/\$275-\$375 per MPD fueling location
 - Unscientific survey
 - Cost savings of \$1,800-\$2,000 per dispenser to purchase a new dispenser with conventional hanging hardware and no vacuum motors opposed to a “Stage II ready” dispenser
 - Testing and repair costs in the range of \$1,000-\$5,000 per year

ULSD Corrosion

- Changeover from Low-Sulfur Diesel to Ultra-Low Sulfur Diesel (ULSD) Between 2006 and 2010
- “Acute” Corrosion in Metal Components First Identified in 2008
 - Rapid occurrences
 - “Coffee grounds” appearances
- Assessing the Problem
 - 2009 ASTM Presentation
 - January 2010 – PEI hosted meeting at EPA with stakeholders
 - Scoping survey
 - Problem Not Region Specific
 - Not occurring at every retail outlet selling ULSD

ULSD Corrosion

- Clean Diesel Fuel Alliance Task Force
 - Guidance document on managing UST systems storing and dispensing ULSD
 - www.clean-diesel.org/compliance.html
 - Research on cause(s) and possible solution(s)
 - Six proposals from researchers
 - Battelle Memorial Institute, with Tanknology
 - Funding in place
 - Initial Work
 - Evaluate multiple theories on the cause(s) of acute corrosion
 - Develop set of working hypotheses
 - Narrowed to three working hypotheses to be tested

ULSD Corrosion

- Microbial Contamination
 - Aerobic and/or anaerobic microbes produce byproducts creating corrosive environment
 - Better data on site with and without corrosion symptoms
 - Microbial identification through genetic sequencing

ULSD Corrosion

- Acetic Acid
 - Chemical characteristics from fuel itself
 - Evaluate chemical characteristics as surrogate identifier
- Additives
 - Gather data on nature and potential magnitude of the effects additives may have on fuel and headspace vapors in the tanks

ULSD Corrosion

- Task Force Next Steps
 - Sites identified (four or six)
 - Testing protocol

E-15

- RFS2
 - The Energy Independence and Security Act of 2007 mandates the use of 36 billion gallons of renewable fuels by 2022.
 - 10% ethanol, E85 (for flex fuel vehicles) and biodiesel currently allowed alternative fuels.
 - If every gallon of gasoline were blended with 10% ethanol, US would consume about 14 billion gallons of renewable fuel – 22 billion gallons short of the mandate

E-15

- Growth Energy Petition
- What Vehicles May Use E15?
 - Flexible-fuel vehicles (FFVs)
 - MY2001 and newer cars
 - MY2001 and newer light-duty trucks
 - MY2001 and newer medium-duty passenger vehicles (SUVs)
- What Vehicles and Engines May Not Use E15?
 - All motorcycles
 - All vehicles with heavy-duty engines, such as school buses, transit buses, and delivery trucks
 - All off-road vehicles, such as boats and snowmobiles
 - All engines in off-road equipment, such as lawnmowers and chain saws
 - All MY2000 and older cars, light-duty trucks, and medium-duty passenger vehicles (SUVs)

E-15

- Legal Challenges to EPA's Decision to Grant Petitions
- As of August 31, 2011, No One Has Registered E-15
- On June 23, 2011, EPA Finalized Misfueling Regulations
 - All E-15 fuel dispensers to have a label informing consumers about what vehicles can, and what vehicles and equipment cannot, use E15
 - Prohibits the use of gasoline containing greater than 10% ethanol in the vehicles, engines and equipment that cannot use E15.
 - Requires PTDs, specifying ethanol content and Reid Vapor Pressure (RVP) to accompany the transfer of gasoline blended with ethanol
 - Survey of retail stations to ensure compliance with labeling and ethanol content requirements

E-15

- EPA published guidance in the July 5, 2011 *Federal Register* regarding compatibility of underground storage tank (UST) systems with biofuel blends
- Federal law (40 CFR §280.32) requires UST systems to be compatible with the substance stored
- Guidance does not apply in States with EPA UST Program Approval

E-15

- EPA UST Compatibility Document
- EPA considers the following components to be critical for demonstrating compatibility:
 - Tank or internal lining
 - Piping
 - Line leak detector
 - Flexible connectors
 - Drop tube
 - Spill and overflow prevention equipment
 - Submersible turbine pump and components
 - Sealants (including pipe dope and thread sealant), fittings, gaskets, o-rings, bushings, couplings and boots
 - Containment sumps (including submersible turbine sumps and under-dispenser containment)
 - Release detection floats, sensors and probes
 - Fill and riser caps
 - Product shear valves
- EPA did not include vapor recovery or aboveground components (*e.g.*, dispensers)

E-15

- Acceptable methods for owners and operators of UST systems to demonstrate compatibility under 40 CFR §280.32 are:
 - Use components that are certified or listed by a nationally recognized, independent testing laboratory (for example, Underwriters Laboratories) for use with the fuel stored
 - Use components approved by the manufacturer to be compatible with the fuel stored. EPA considers acceptable forms of manufacturer approvals to:
 - Be in writing;
 - Indicate an affirmative statement of compatibility;
 - Specify the range of biofuel blends the component is compatible with; and
 - Be from the equipment manufacturer, not another entity (such as the installer or distributor); or
 - Use another method determined by the implementing agency to sufficiently protect human health and the environment.
- Can't Demonstrate Compatibility =No Storage

E-15

- PEI UST Component Compatibility Library
 - Currently, letters from 17 manufacturers
 - Central place to review manufacturers' statements of compatibility (>E10 and/or >B20)
 - Posted listings (as of 10/01/2011)include:
 - Acterra
 - Ameron International
 - Bravo Systems
 - Brugg Pipesystems
 - Containment Solutions
 - Hamilton Tanks
 - KPS
 - Metal Products Company
 - Mid-South Steel
 - Modern Welding
 - Morrison Brothers
 - Nupi Welding
 - Omegaflex
 - Service Welding
 - Stanwade
 - Vaporless Manufacturing
 - Xerxes
 - <http://www.pei.org/PublicationsResources/RegulatoryCompliance/USTComponentCompatibilityLibrary/tabid/882/Default.aspx>

E-15

- What Happens to Refiners' Blend Wall
 - Ethanol will need to be blended into gasoline at levels greater than the current limit of 15%
 - E-85 vs. 20% to 30% ethanol blends
 - State of tax incentives
 - Ethanol No Longer Sacrosanct in DC
 - Recent Midwest Failure of E-30 “Experiment”

E-15

- The “Renewable Fuels Marketing Act of 2010” (H.R. 5778)
 - Introduced July 20, 2010 by Reps. Mike Ross (D-AR) and John Shimkus (R-IL)
 - EPA directed to issue guidelines to determine compatibility of petroleum equipment at retail facilities
 - Route to using existing equipment legally
 - Equipment approved under the guidelines will satisfy all applicable laws and regulations, as well as requirements under tank insurance policies (??)
 - EPA directed to issue labeling regulations to inform consumers of the approved uses of fuels to prevent the misfueling of non-compatible vehicles
 - Renewed efforts by petroleum marketers to pass
 - Seeking re-introduction of legislation

AST EVR

- 2008 CARB Certification and Test Procedures
- Covers standing loss control, Phase I deliveries into ASTs and Phase II deliveries to motor vehicles
 - As of April 1, 2009, all new installations of ASTs are subject to standing loss control if vapor recovery control is required by district rule
 - Existing installations undergoing a major modification are considered new installations
 - For standing loss control only, a replacement of an existing tank with a tank of equal capacity is not considered a major modification

AST EVR

- On or after January 1, 2012, Phase II equipment meeting the new EVR performance standards or specifications must be installed on new installations
- Existing installations that have undergone modifications on or after January 1, 2012 are considered as new systems
- All existing installations must install Phase II EVR equipment by January 1, 2016.

SPCC

- On April 18, 2011, EPA published a final rule amending the SPCC regulations to exempt milk and milk product containers, associated piping and appurtenances
 - Certain specific construction and sanitation standards and requirements address the prevention of oil discharges in quantities that may be harmful
 - The capacity of the exempt milk and milk product containers, piping and appurtenances should not be included in a facility's total oil storage capacity calculation to determine if the facility is subject to SPCC

SPCC

- EPA Compliance Date – November 10, 2011
- Wastewater Treatment
 - Oil-Water Separators

NCWM

- Task Force Created to Review Price Posting
 - Prompted by the growth in loyalty and other retailer discount programs
 - Proposal possible at NCWM's January 2012 interim meeting,
- Remanufactured equipment
 - Proposal carried over from 2010 would require that any replaced component would have to meet all applicable codes in effect at the time of the replacement—rather than the codes in effect at the time the original component was put into service
 - Handbook 44 was modified to make clear that replaced components must only meet the codes in place at the time the original component was placed into service.
- Temperature Correction
-

Hazard Communication

- OSHA GHS/HCS
 - Status
 - Proposal published September 30, 2009
 - 90-day comment period (ended December 29, 2009)
 - Informal public hearings in 2010
 - Final Rule by ??
 - What is GHS
 - An internationally-negotiated system that provides a common, coherent approach to classifying and communicating chemical hazards
 - Includes:
 - Harmonized definitions of hazards
 - Specific criteria for labels
 - Harmonized format for safety data sheets

While on OSHA

- Other OSHA
 - Injury & Illness Recordkeeping
 - Fall Protection Proposed Rule
- Increased OSHA Enforcement
 - Really?
- Safe Tank Alliance Ended

What We Didn't Cover

- “Green Energy”
 - Electric Vehicles and Infrastructure
 - Solar Power for Retail Outlets
 - Energy-efficiency and lighting
- PCI Compliance
 - Chip & PIN Coming
- Stormwater Management

THANK YOU

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