

Peters, Heather

From: Greenwalt, Donnie <DGreenwalt@mail.wallisco.com>
Sent: Thursday, October 27, 2016 3:04 PM
To: Peters, Heather; Sturgess, Steve
Cc: mjordan@mail.wallisco.com; Andreasson, Rachel; Wallis, Lynn; PSTIF Office; Leone, Ron
Subject: Comments on Proposed UST Rule Changes

Importance: High

Good afternoon,

Please accept this email correspondence as Wallis Companies' formal comment on Missouri's proposed changes to the Underground Storage Tank Rules.

Wallis greatly appreciates the efforts that the Missouri Department of Natural Resources has made working with stakeholders to implement the provisions of EPA's revised rules. Missouri has a uniquely collaborative regulatory environment that few other states enjoy. This collaboration offers stakeholders and regulators the chance to have constructive dialogue on the rules that govern our industry and the opportunity to ultimately produce a rule package that satisfies the interests of both.

In general, we find the substance of the rule to be agreeable with no major issues. We do, however, offer the following:

- 1) Wallis Companies (Wallis) has concerns regarding the definition of "connected piping" and "underground storage tank". Although we do not have alternative language to propose, we would like to have some clarification and suggest that the shear-valve be used as a line of regulatory demarcation in lieu of the terms "above" and "below" ground.
- 2) Wallis is concerned with the lack of fiscal analysis provided by the Department regarding the new equipment testing requirements. Although, the Federal EPA provided their own fiscal analysis, we do not feel as though it is an accurate representation of the true costs of compliance. This ultimately has left a large portion of the regulated community uninformed.
- 3) Wallis would appreciate clarification or a published policy regarding the Department's position or treatment of failed equipment tests. If it is not the intent of the Department to consider failed equipment tests as "suspected releases" we would like to have that documented as such.
- 4) 10 CSR 26-2.040 (1)(C)1 states that we must test "Automatic tank gauge and other controllers: test alarm; verify system configuration; test battery backup;". Wallis would like to see an exception to the testing of the battery backup system when information from a tank gauge is stored remotely through a connection with an off-site monitoring system.

If you have any questions or concerns regarding these comments, please do not hesitate to contact me.

Thank you,

Donnie Greenwalt



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End
Of
Comment



JEREMIAH W. (JAY) NIXON
GOVERNOR

CAROL R. EIGHMEY
EXECUTIVE DIRECTOR

October 27, 2016

Steve Sturgess
Director, Hazardous Waste Program
MO Department of Natural Resources
PO Box 176
Jefferson City, MO 65102

Re: Comments on Proposed Amendments and New Rules in 10 CSR 26-2,
published in the September 15 *Missouri Register*

Dear Mr. Sturgess:

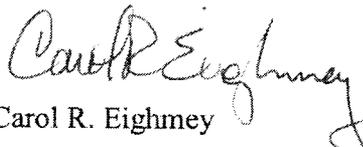
We appreciate the opportunity to offer comments on these proposed changes to the rules governing operation of underground storage tanks. As mentioned in my oral testimony, Missourians are fortunate to have an individual working for the Department who is as knowledgeable about UST equipment, operations, and testing procedures as is Ms. Heather Peters, and we want to explicitly recognize and credit her work on this rules package.

The enclosed comments are presented on behalf of the PSTIF Board of Trustees and the owners and operators of the nearly 6800 underground tanks they insure with us.

Please do not let the length of our submittal cause a misperception. We offer only six significant substantive comments, explained on pages 1-4. The bulk of the remaining comments relate to typos, grammar, and similar wording issues; we offer these in an effort to help you and your staff assure the rules are as internally consistent and clearly written as possible.

We are available to answer questions about any of our comments. If we can provide any assistance to the Commission and/or your staff as they work to finalize the rule package, please know we stand ready to do so.

Sincerely,


Carol R. Eighmey

ENCLOSURE

CRE/drj

cc: PSTIF Board of Trustees



Petroleum Storage Tank Insurance Fund

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Items discussed in oral testimony at public hearing on October 20

1. We oppose the proposed Missouri-specific changes to several definitions in 10 CSR 26-2.012 that would significantly alter the regulatory scope of the rule package and create significant challenges for owners and operators.

We oppose removing the word “underground” from the definitions of “connected piping” and “underground storage tank.” We respectfully but emphatically ask the Commission to *retain the definition currently in your rules, which matches EPA’s definition*, for the following reasons:

- a. Both EPA and DNR have regulated only the “equipment below the shear valve” since the inception of this program; this proposed change would alter that longstanding tradition.
- b. It is not physically or technically possible for an owner/operator to comply with these rules for equipment above the shear valve.
- c. The definition, as proposed, makes the definition of “dispenser” circular; i.e., Dispenser is defined as equipment located aboveground that dispenses product from the UST system, and UST system is defined to include the dispenser.

We recognize the newly-proposed definitions are based on Section 319.100, RSMo. However, the agency has used a narrower – and frankly, more accurate – definition in its rules for 25 years, and we know of no reason to change it now. No costs of doing so were estimated in the Regulatory Impact Report, nor in the fiscal note accompanying the rules. No problems with the definition that has been in use for 25 years have been noted. In short, “If it ain’t broke...”

2. We oppose two Missouri-specific requirements not in EPA’s rules.

The proposed rulemaking contains several new requirements that are *not* in EPA’s rules. We support some of these state-specific requirements, but there are two we believe are problematic:

- a. We oppose the additional requirement inserted into sections (1) and (4) of 10 CSR 26-2.019 requiring owners/operators to notify the Department prior to installing any new piping. No data have been provided indicating a need for this requirement, as required by Section 536.016, RSMo. Further, we understand most owners/operators and their equipment vendors already are voluntarily notifying the Department of planned piping replacements or installations; for the occasional situation where such communication might not occur, the proposed rule would subject the owner/operator to penalty, for no apparent reason.
- b. Similarly, we oppose another state-specific requirement that goes beyond what EPA requires and for which no data have been provided demonstrating a need or that the cost/benefit ratio is favorable, as required by Section 640.015, RSMo. In 10 CSR 26-2.021(3)(A)1.G., the Department proposes to require owners/operators to *obtain, retain, and provide on demand* photographs taken when their underground tanks are lined. The fiscal note

indicates all but one vendor provide photographs now, and we recognize such photo-documentation may reassure the owner/operator of the vendor's work quality. However, by converting what is a nearly-universal industry practice into a regulatory standard, the Commission would make tank owners and operators liable for penalties if their equipment vendor does not provide such photographs, or if such photographs cannot be produced at a later date when requested by the regulatory agency. We do not believe the Department has provided adequate justification for this state-specific requirement, and we urge the Commission to reject it.

3. *We question whether the impact of the proposed new equipment testing requirements has been fully analyzed and communicated, and we specifically request either a delay of one of the requirements or flexibility in how owners/operators must meet it.*

New equipment testing requirements appear in several places in the proposed rules, including 10 CSR 26-2.030, 2.035, and 2.040. Test protocols have only recently been designed, and there is little experience with them yet across the country. Based on California's experience, where similar requirements have been in effect for a few years, it is expected half the equipment currently in use throughout the state may fail the initial tests.

Much of this equipment was neither designed nor installed with the intent that it would be removed for testing. It is anticipated much of the equipment will have to be replaced as a result of being damaged during removal or failing its initial test. One rule will require owners/operators to test the probe that hangs inside many tanks to measure fuel and water levels and detect leaks. Your staff has indicated the only acceptable method for testing an automatic tank gauge probe requires removing it from the tank. As indicated in the attached letter, the PSTIF Advisory Committee specifically requests this rule be written to allow flexibility with regard to this requirement. Owners/operators will be aware if a probe is not working because the gauging equipment will alert them. Probes were not designed to be regularly removed and reinstalled, many will be broken and have to be replaced, and there are no data indicating inoperable probes are causing leaks.

In addition, we ask the Commission to consider postponing promulgation of the equipment testing requirements applicable to release detection equipment and spill/overfill equipment until more information can be obtained. As noted by your staff, states are *not* required to implement EPA's rules verbatim, and EPA specifically allows more flexibility in the UST program than in its other regulatory programs. Missouri plans to submit an application to EPA in 2018, demonstrating its UST program still achieves the same outcomes as the EPA rules would if they were implemented in our state; by then, more information and experience will have been accumulated nationwide, plus it will be clearer when EPA responds to that application what regulatory approaches EPA deems equivalent. Any deficiencies in your rules identified by EPA at that time can be

addressed in a subsequent rulemaking, after regulators and industry experts will have gained more experience with equipment testing options.

4. No fiscal notes were published for most of the rules; yet many of the rules will create new costs for small business owners, as well as for the Petroleum Storage Tank Insurance Fund.

Sections 536.200 and 505, RSMo, require any agency promulgating new rulemakings to publish fiscal notes estimating the cost of such rules. No fiscal notes were published for the rules that require tank owners/operators to purchase more expensive tanks and piping, test their equipment, change their monitoring methods, conduct inspections, or comply with other new requirements being proposed in this rule package. We believe the cost for Missouri's tank owners and operators to comply with these new requirements will be significant and will cause some to go out of business.

Further, new costs will be incurred by the Petroleum Storage Tank Insurance Fund Board of Trustees and the Department of Natural Resources to administer these new rules. Currently, PSTIF staff are responsible for reviewing documentation from ~83% of Missouri's UST owners to determine whether they are operating in compliance with these rules; we anticipate having to make significant software changes, and that our compliance reviews will be more costly, if these rules are adopted. We also pay for field inspections of ~83% of operating USTs; we may see an increase in those inspection costs. Similarly, the DNR performs compliance reviews and pays for inspections of the ~17% of UST sites not insured by the PSTIF. We believe state law requires the Commission to publish, review, and consider all costs – both to the private sector and state agencies – before promulgating rules.

It is our understanding this oversight can be remedied when the final Orders of Rulemaking are published, and we urge the Commission to require your staff to prepare such fiscal analyses. Even if it were not required by state law, we believe you need this information to make an informed judgment whether to promulgate these rules as proposed or with changes.

5. Related to #3 and #4, no information has been provided indicating what the Department's response will be when equipment that has never had to be tested before fails a test; depending on what the Department's response is, costs could potentially be significant.

If, for example, the Department takes the position that every time some component of an automatic tank gauge fails an operability test, or every time a containment sump does not pass a test indicating it is "leak-tight," the owner/operator must do a site assessment to look for petroleum in the ground, the fiscal impact of these rules could be enormous, both for tank owners/operators and for their insurers. Preparation of fiscal notes will "put the Department on record" as to what its intentions are in this regard.

If the Department's intent is to treat some or all equipment test failures as an "unusual operating condition," per 10 CSR 26-2.050, we suggest a statement to this effect be added to the rules in appropriate places.

- 6. We support requiring new piping to be double-walled, and we support requiring containment sumps, but we oppose the requirement in 10 CSR 26-2.010 and 2.020 that any tank installed after July 1, 2017 be double-walled.**

We oppose this requirement for the following reasons:

- a. The increased costs of a complete double-walled system will serve as a disincentive for owners to replace old infrastructure that, as it ages, becomes significantly more likely to leak;
- b. No data have been provided to indicate this requirement will reduce the frequency or severity of leaks; and
- c. Only two materials are used to manufacture tanks for use underground – steel or fiberglass. The high cost of double-walled steel tanks makes this requirement a de facto ban on steel tanks and a mandate that owners purchase fiberglass tanks. Some experts believe fiberglass tanks have a shorter lifespan and a higher risk of leaks, particularly when used to store certain new fuels. In addition, we know fiberglass are being deformed, perhaps beyond their design limits, by devices on vent stacks required by the DNR's air pollution rules; such deformation may be weakening these tanks and shortening their lifespans. Because of these risks associated with fiberglass tanks, owners should still have the option of purchasing and installing steel tanks, if they wish.

Because piping is more likely to leak than the tanks themselves, and most new installations now include double-walled piping, we suggest an alternative approach would be to require double-walled piping and containment sumps, while still allowing owners the option of installing new clad steel tanks, at least for gasoline blends; these tanks are well-protected from corrosion, have an excellent history of rarely leaking, and would be more affordable.

Additional Comments

26-2.010 Applicability and 2.011 Interim Prohibition for Deferred Underground Storage Tank Systems

We understand some UST systems were previously “deferred” from complying with the Commission’s UST rules; however, that is no longer true. Therefore, we suggest retaining the term “deferred UST systems” is unnecessary and will be confusing for future readers of this rule.

Please note:

- a. 2.010(4)(C), as written, is confusing; the heading for the section is “Previously deferred UST system,” which does not apply to a “new UST system installed after January 1, 2017.” We suggest, at a minimum, deleting this section; this same requirement appears in 2.020 and does not need to be promulgated in multiple rules.
- b. Subsection (4)(A) does not specify a date by which the owners/operators of these “previously deferred” USTs must comply with the specified rules.
- c. Given that the purpose of section (1) of 2.011 was to provide a basis for the exceptions in sections (2) and (3), and you are deleting sections (2) and (3), we do not think section (1) is necessary. The requirements it summarizes are spelled out in more detail in subsequent rules; therefore, we recommend complete rescission of 2.011.

Please see the attached alternate wording for 2.010; we believe this wording simplifies this rule without changing the meaning, remedies the problems noted above, and would allow rescission of 2.011 without diminution of regulatory scope or substance.

2.012 Definitions

We suggest deleting the definitions of “belowground release” and “underground release,” as the terms are not used in the rules; the definitions also appear to be redundant. Further, the definition of “belowground release” is confusing; it is defined as “any release to the subsurface,” but then includes references to releases from overfills and product transfers, which generally occur above the surface.

We respectively but emphatically request the current definition for “ancillary equipment,” which matches that used in the EPA rules, be retained. No explanation has been provided as to why the rulemaking proposes a broader definition. Further, because the term “ancillary equipment” is included in the definition of “underground storage tank,” expanding it as proposed would mean the dispenser, hose, and nozzle located aboveground would be subject to all the rules governing operation of USTs. As discussed above, this creates numerous problems and is not required by EPA.

We support the proposed definition for “cathodic protection tester,” requiring persons who perform this work in Missouri to be certified by one of three organizations, even though it is more stringent than EPA’s rules.

However, we oppose the proposed revision to the definition of “corrosion expert” and suggest retaining the current definition, which matches that used in EPA’s rules. We see no reason a qualified engineer cannot serve as a “corrosion expert” without having completed the specific training courses offered by the two credentialing organizations referenced in the proposed rule.

We suggest deleting the adjective “leak-tight” as applied to containment sumps in the definition of “double-walled piping.” Subsequent rules contain requirements for the sumps themselves; requiring a sump to be leak-tight is an operating and maintenance requirement, not a definition. (See, for example, 2.020(1)(B)5.) As an alternative, the definition could say, “designed to be leak-tight.”

We suggest a definition of “double-walled tank” be added. (See also comment below regarding 2.020).

We suggest the definition of “field-constructed tank” be amended by deleting the words, “the field or.”

It is not clear whether a UST containing a mixture of petroleum and a hazardous substance is a “petroleum storage tank” or a “hazardous substance UST system.”

We suggest deleting the definition of “liquid trap,” as it appears that term is not used in the rules.

We suggest deleting the definition of “noncommercial purposes,” as it appears that phrase is not used in the rules.

The definition of “out-of-service” and “out-of-use” appear in the *Missouri Register* in boldface, but we could not discern any changes being proposed.

We suggest the definition of “overfill release” be deleted, as it appears that term is not used in the rules.

We suggest the proposed definition of “owner” be revised as follows to correct the grammar: “...excluding **persons who hold indicia of ownership primarily to protect a security interest** or lienholders exempted under...”

In this rule, “petroleum storage tank” is defined to include only USTs, not ASTs. However, it is our understanding this term is used in the DNR’s RBCA Guidance to include both USTs and ASTs. To avoid having rules and guidance documents that use the same term but define it differently, we suggest the following: Delete the definition of “petroleum storage tank” in this rule and modify the proposed definition of “release” to

say, "...from an underground storage tank into groundwater..." We believe this will preserve the same meaning and intent, while avoid a contradiction in terms. The term "petroleum storage tank" is not used anywhere else in 10 CSR 26-2, except in the titles of documents produced by others and incorporated by reference, so we do not think it is necessary to define it in 2.012.

Regarding the definition of "petroleum storage tank," please see our comments related to the definitions of "connected piping," "underground storage tank," and "UST system" or "Tank System." Because the definition of "petroleum storage tank" incorporates those definitions, our concern with the definitions of those terms also applies to this definition.

We understand and support the addition of a definition for "replaced piping," but it is unclear why the definition also refers to tanks. This creates confusion; various provisions of the rules apply to "new tanks," while other provisions relate to "replaced tanks." For simplicity, it would seem a new tank is a new tank, regardless of whether it is being installed on the same property where a tank previously existed. We suggest a definition of "replaced piping" is all that is needed. (See also comments below on 2.020.)

We suggest the definitions of "underground area" and "underground release" be deleted, as it appears the terms are not used anywhere in the rules.

We suggest the current definition of "upgrade" be retained to match EPA rules; i.e., Add the word "or" before the words "spill and overfill controls."

Regarding the definition of "UST system," the proposed changes to the definitions of "connected piping" and "ancillary equipment" cause a change to the longstanding definition used by both DNR and EPA; we respectfully but emphatically ask the Commission to retain the current definition, for the reasons stated above.

2.019 New Installation Requirements

We support the proposed reduction from 30 days to 14 days' advance notice for new UST installations.

We do not understand why changes are being proposed to subsection (4). As currently written, the sentence applies to "installation of an UST," and "UST" is defined as the tank and piping. We suggest leaving that subsection unchanged.

In subsection (6), we support the proposed addition of a requirement for new USTs at marinas to comply with PEI's RP1000 or other Department-approved procedure.

We support the clarification being added to subsection (8).

2.020 Performance Standards for New Underground Storage Tank Systems

We suggest the title of this rule is misleading, as portions of the rule apply to any UST installed after 1998, (which would not, in 2016, be considered “new”), and portions of the rule will apply only to USTs installed after July 1, 2017, which will rightly be considered “new.” We recommend the title of this rule be amended to “Performance Standards for Existing UST Systems” and the requirements applicable to USTs installed after July 1, 2017 be presented in a separate rule titled “Performance Standards for New UST Systems.” This would make it much easier for the public and regulated owners/operators to find and follow the requirements applicable to any particular UST.

We suggest the definition of double-walled tank contained in paragraph 5 of subsection (1)(A) be moved from this rule to the Definitions Rule.

Subsection (1)(A) refers to “new or replaced tanks,” as if they are different things. Per our comment above about the definitions, we suggest a new tank is a new tank, regardless of whether it is being installed on a site where a tank previously existed. We suggest deleting the definition of “replaced tank” and simplifying this subsection to refer only to “new tanks.”

The new requirement to install double-walled piping appears in two places in this rule – in subsection (1)(B), which is the corrosion prevention requirement that has been in place for 25 years, and again in paragraph 5 of that same subsection. Further, the language is not the same, although it is apparently intended to mean the same thing. As mentioned above with regard to the new requirement applicable to tanks, we suggest requirements applicable to new UST systems and replaced piping be separated from this rule, which applies to existing UST systems and has been “on the books” for many years, and instead be placed in a stand-alone rule. At the very least, we recommend separating the new language applicable to new USTs and replaced piping and placing it into its own section in this rule.

Related to the prior comment, we request the words, “within any twelve (12) month period” be deleted from subsection (1)(B). This qualifier does not appear in EPA’s rules; it seems unnecessary; and no explanation was provided as to why Department staff recommended this language here. Were there going to be a time-period specified for what constitutes “replaced piping,” it should have been proposed in the definition for “replaced piping.”

Similarly, subsection (1)(D) refers to “...new or replaced tanks or piping systems...” Please note “piping systems” is not a defined term. We suggest the language be changed to “...new tanks or replaced piping installed after...”

We support the requirement that owners/operators must install a containment sump under any new dispenser installed after July 1, 2017. However, it is not clear why the language in subsection (1)(E) includes the phrase “or replaced;” these two words are not in EPA’s rules and we believe including them here will create confusion among

stakeholders, who have been assured when a vehicle damages an existing dispenser and they must replace it, they are *not* required to break concrete and install a containment sump beneath the replaced dispenser. We suggest deleting the words, “or replaced” from paragraph 1.

Further, with regard to subsection (1)(E), we understand the variance from EPA’s rule language was proposed in response to comments from another stakeholder. However, we suggest the proposed language is still unclear, because the list in the second sentence that essentially defines what is meant by the term “equipment” in the first sentence includes items that will not exist in every situation; this renders the “definition” of “equipment” inapplicable in many cases. We propose alternate wording, as follows, for this paragraph: “A dispenser system is considered new when both the dispenser and all equipment needed to connect the dispenser to the underground piping – such as check valves, shear valves, unburied risers, flexible connectors, or other transitional components -- are installed.”

In paragraph 2 of subsection (1)(E), we note the conjunction “or” from previously-published draft versions was changed to “and.” We suggest retaining “or;” this matches EPA. Thus, it would read, “...must allow for visual inspection and access to the components in the containment sump or be tested or monitored...”

2.021 Upgraded Underground Storage Tank Systems

Since this rule was originally written in 1991, it contained “upgrading requirements” applicable to USTs that remained in use on December 22, 1998. Since all USTs that were in use in 1998 and are still in use today have already met this requirement, we support the change in the Purpose Statement. Further, we suggest revisions be made to the proposed new text to make it clear the rule is no longer prospective, (except in infrequent cases where a tank that is already corrosion-protected may be lined in the future for other reasons).

As an example, we suggest the heading for section (3) – ‘Tank Upgrading Requirements’ -- and the first sentence of the subsection should also be changed, as was done with the title of the rule and the purpose statement.

We find the new rule language for subsection (3)(A) confusing. For example, paragraph (3)(A)1 requires that the lining be installed in accordance with another rule, but the referenced rule only addresses repairs, not installation. There are other sentences in this section that reference installation, inspections, and repairs, though some of the subsequent lists in those subsections or paragraphs apply only to one of those events and not the other two. Requirements related to installation standards appear in multiple places. Some requirements apply only to steel tanks, others apply only to fiberglass tanks, but the text does not make that clear. Subsection (3)(A) seems to say that, after January 1, 2020, UL1856 must be followed, but it is not clear whether that standard also applies to the period of time after the effective date of the rule and before 2020.

While we appreciate your staff's efforts to provide more flexibility for tank owners/operators to continue using tanks that have previously been lined, there are concerns that allowing multiple repairs to the same lining may, over time, result in a high risk of leaks from such a tank. We suggest owners/operators be prohibited from repairing the same lining more than two times.

We note UL1856 is being incorporated by reference, as are other industry standards; we support the incorporation but suggest the rule specify the current version of the standard is being incorporated, as you have done with other incorporated standards.

While it may not be perfect, we offer the attached alternative wording as a possible revision to this rule, in lieu of the proposed version

Section (6) seems out of place and unnecessary. As mentioned above, we support the requirement to install containment sumps under new dispensers installed after July 1, 2017, but that requirement already appears in two different places in 2.020. We suggest it is redundant and confusing to put the requirement in this rule also, which deals with lining and cathodic protection as corrosion prevention methods. Further, if a requirement appears in multiple rules, it should be worded identically in each rule to avoid conflicts and confusion.

There is a semi-colon at the end of subparagraph (3)(A)1.G. We suggest a period may be appropriate.

2.030 Spill and Overfill Control for In-Use Underground Storage Tank Systems

We support the change to the rule title.

We suggest rewording subsection (3)(B) so it is grammatically correct, as follows: "Conduct a vacuum, pressure, or liquid test on their spill prevention equipment at least triennially to ensure the spill prevention equipment is liquid tight, using one of the following: ..."

In paragraph (3)(B)2., the name of the standards-setting group appears in two forms; we believe it should be "...on Leak Detection Evaluations" instead of "...for Leak Detection Evaluations."

In section (4), the word "complete" appears twice in the second sentence; we suggest the second one be deleted.

We suggest rewording section (5) as follows: "Owners and operators must ensure their overfill prevention equipment is operating properly and will prevent releases to the environment by conducting a test or inspection of the equipment at least triennially."

Subsection (5)(C), relating to overfill prevention devices, allows other methods, so long as they are equally protective; we suggest the reference at the end of the sentence

should be "...the requirements listed in subsections (A) and (B) of this section" instead of referencing criteria applicable to spill prevention equipment.

We suggest sections (6) and (7) be written in active voice, as is typical throughout this Chapter. I.e., "Owners and operators must..." Also, we suggest the requirement in section (7) apply to USTs that have been "out of operation" rather than "out of use," since it would be possible for a tank to contain fuel but not be receiving deliveries for an extended period of time.

We suggest section (8)(A) require owners/operators to retain records "for three years or until the next test or inspection is performed." If, for example, an owner/operator conducts tests more frequently than required, he should not be required to keep three years of records.

2.031 Operation and Maintenance of Corrosion Protection

We support the proposal to require replacement of metal piping if the cathodic protection system has been off for more than 90 days.

2.032 Compatibility

Since only 14 days' notice will now be required for new installations, would the Department consider reducing the notice in section (2) from 30 days to 14 days?

2.033 Repairs Allowed

We suggest deleting the words "that is" in section (E), so it would read, "...unless tested using another method determined by the department..."

We had not previously seen the proposed language in section (F); while we support the intent, we suggest the sentence is not written clearly and not punctuated properly. In the alternative, we suggest, "When an owner or operator repairs any portion of a UST system that is double-walled, the test required by section (E) of this rule must be designed to confirm the integrity of both walls." In addition, we suggest reformatting sections (E) through (H), as shown in the attached example.

2.034 Reporting and Record Keeping

To be consistent with the other paragraphs in this subsection, we suggest paragraph (1)(A)1 be reworded as follows, "Notification for all UST systems (**10 CSR 26-2.022**) [*by the notification requirements in 10 CSR 26-2.055*];"

In (1)(B)1., we suggest either correction of an apparent typographical error or revision of the sentence. I.e., as written, we believe it should read, "Installation records for secondary containment or double-walled equipment..." In the alternative, we suggest a

shorter version, as follows, "Installation records for any UST system or system component installed after July 1, 2017."

In (1)(B)3, we suggest deleting the words "and all other ancillary equipment." EPA's UST rules, like the Commission's current UST rules, impose operating requirements only on equipment located below the shear valve. By including this phrase, the Commission's compatibility rule would extend beyond what EPA requires and regulates. In addition, the Commission and its staff would be duplicating regulatory authority already exercised by the Missouri Department of Agriculture.

In (1)(B)5, we suggest, "...is being properly maintained *and* inspected *or* tested..." since the rules allow owners/operators the options of either inspecting or testing some of these devices.

Neither subsection (1)(B)6 nor 7 specifies how many of such records must be retained by the owner/operator, or for how long. We suggest revising as follows: "6. Documentation of the most recent containment sump test results" and "7. Documentation of walkthrough inspections for the most recent year."

We suggest adding the following paragraph to this subsection so it will contain a complete list of all records the owner/operator is required to maintain: "11. Documentation demonstrating a valid financial responsibility mechanism is in effect, (10 CSR 26-3)."

2.035 Testing of Containment Sumps

This new rule was the subject of considerable discussion by PSTIF Advisory Committee members. We have no objection to the intent of the rule, but as written, we find it confusing. We offer the attached alternate version, which we suggest is clearer and equivalent in meaning.

2.036 Operation and Maintenance Walkthrough Inspections

In two ways, this proposed new rule is less flexible than EPA's rule. Specifically, EPA's rule allows for less-frequent walkthrough inspections by owners whose USTs receive deliveries less frequently than once every thirty days; EPA also allows owners/operators to use procedures other than those listed in the rule if the alternate procedure is approved by the regulatory agency. We ask the Commission to include this flexibility in its rule.

We also find the language of this new rule confusing. We offer the attached alternate wording, which we suggest it is clearer and equivalent in meaning.

2.040 General Requirements for Release Detection for All Underground Storage Tank Systems

We note the title of the rule indicates the rule applies to “all” UST systems; however, the rule language itself apparently applies only to UST systems that are “in use.”

The grammar of Section (1)(B) is confusing. It essentially says, “Owners...must use a *method*... that is...tested.” It then goes on to say the test of the *method* must be done per a manufacturer’s *method*. (italics added.) We suggest the text of this section be revised to eliminate this use of the same word (method) to mean two different things. Specifically, we recommend the new requirements to test the operability of release detection *equipment* be put in a new section so it does not reside in a section that also addresses *methods*.

In the first sentence of subsection (C), we suggest the words, “For existing sites...” be replaced, as “existing sites” is not a term that is defined. As an alternative, we propose “Owners and operators of UST systems that are in use on January 1, 2020 must conduct the first operability test of their release detection equipment no later than January 1, 2020.”

In previous discussions with PSTIF Advisory Committee members, Department staff stated owners/operators will not be required to test the battery backup for their automatic tank gauges if the ATGs are remotely monitored. We suggest adding this clarification to paragraph (1)(C)1., as follows, “...test battery backup unless the automatic tank gauge is continuously monitored from a remote location;”

2.041 Requirements for Petroleum Underground Storage Tank Systems

We suggest the words “new or upgraded” be deleted from (1)(A)1.

We suggest new paragraph (1)(A)5 is unnecessary; vapor monitoring is not being “banned” outright, as groundwater monitoring is, and all requirements applicable to owners/operators who wish to use vapor monitoring are contained in a subsequent rule, 2.043. Our preference is that this paragraph be deleted from this rule. In the alternative, if you wish to retain it here, please correct the typographical error; we suggest the following, “Vapor monitoring...may not be used after July 1, 2020 as a release detection method unless it is used with an added tracer...”

Similarly, we suggest new paragraph (1)(A)4 is unnecessary and should be deleted. This rule does not address specific leak detection methods; rather, it sets forth the performance standards any leak detection method or device must meet. The specific requirements applicable to each method or device are set forth in 2.043, including the requirements applicable to groundwater monitoring and the deadline after which this method can no longer be used. Redundancy does not enhance clarity.

New subsection (1)(6) is unnecessary. The rule applies to all UST systems that are in use, regardless of when they were installed. Suggest deleting this subsection.

Similarly, new paragraph (1)(B)1.C is unnecessary, for the same reason. Suggest deleting.

Similarly, new subsection (1)(B)4 is unnecessary, for the same reason.

2.043 Methods of Release Detection for Tanks

We suggest the revisions to the paragraph now numbered (1)(B)7 are confusing; e.g., it is not clear what “daily data” means. We note EPA’s rules do not contain this requirement, and we believe that requiring that SIR methods and reports comply with NWGLDE listings is sufficient. We suggest the entire paragraph be deleted.

The language used in paragraph (1)(E)2 is confusing. Specifically, it is not clear what “the system operating” means, nor what “system” is being referred to. Suggest rewording as follows, “The test must meet one of the following criteria: A. In-tank static testing must be conducted at least once every thirty (30) days; or B. Continuous in-tank...”

The language in subsection (1)(H) related to piping should be deleted, as this rule and section (1) apply only to tanks.

We suggest changing the term “UST systems” in paragraphs (1)(H)2 and 3 to “tanks,” since this rule and section apply only to tanks, not to piping or other parts of the UST system. Also the reference to “piping in paragraph 3 should be deleted.

We suggest the word “and” at the end of (1)(H)3 should be deleted and a period inserted.

2.044 Methods of Release Detection for Piping

We suggest the heading for subsection (1)(C) be revised or eliminated. “Applicable Tank Methods” is inappropriate since the entire rule, including this subsection, deals with piping, not tanks.

In (1)(C)1, we suggest rewording as follows, “Owners and operators of UST systems that include piping with a total volume greater than fifty thousand...”

As stated above, we do not think it is necessary to repeat provisions that appear in other rules. Therefore, we suggest deleting new paragraphs (1)(C)2 and 3. This is particularly true since subsection (1)(C) already references and incorporates 2.042, where the 2020 ban of groundwater monitoring and the 2020 change to requirements for vapor monitoring already appear.

2.048 Release Detection Record Keeping

We suggest this rule be combined with 2.034 so all record keeping requirements that UST owners and operators must comply with are contained in a single rule.

2.052 Release Investigation and Confirmation Steps

We suggest the following revision to paragraph (1)(A)1 to make it consistent with paragraph 2 and accepted practices: "Owners and operators must begin a site check in accordance with subsection (1)(B) if the test results for the system..." Per subsection (1)(B), the "site check" requires the owner/operator "begin site characterization and corrective action in accordance with 10 CSR 26-2.070 – 10 CSR 26-2.083," so paragraph (1)(A)1 need not also require some of those same actions.

Suggested Alternate Wording for

PROPOSED AMENDMENT

10 CSR 26-2.010 Applicability

(1) General Applicability. The requirements of this chapter apply to all owners and operators of an underground storage tank (UST) system as defined in 10 CSR 26-2.012, except as otherwise provided in sections (2)–(4) of this rule. Any UST system listed in section (3) of this rule must meet the requirements of 10 CSR 26-2.011.

(2) Exclusions. The following UST systems are excluded from the requirements of this chapter:

(A) Any UST system holding hazardous wastes listed or identified in the Missouri Hazardous Waste Management Law, sections 260.350–260.434, RSMo, and the rules promulgated thereunder or a mixture of hazardous waste and other regulated substances, except for ~~waste-used~~ oil as defined in 10 CSR 25-11.279;

(B) Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 402 or 307(b) of the Clean Water Act (33 U.S.C. 1251);

(C) Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks;

(D) Any UST system whose capacity is one hundred ten (110) gallons or less;

(E) Any UST system that is installed within a vault, if all exterior surface areas of the tank may be visually inspected without removal of backfill, gravel, sand, or other fill material;

(F) Any UST system that contains a *de minimis* concentration of regulated substances; and

(G) Any emergency spill or overflow containment UST system that is expeditiously emptied after use.

(3) ~~Deferrals~~Partial Exclusions.

(A) Rules 10 CSR 26-2.020–10 CSR 26-2.048 do not apply to airport hydrant fuel distribution systems in operation on June 30, 2017 until July 1, 2019.

(B) Rules 10 CSR 26-2.020–10 CSR 26-2.053 and closure requirements in 10 CSR 26-2.060–10 CSR 26-2.064 do not apply to any of the following types of UST systems:

(A) Wastewater. 1. Other wastewater treatment tank systems not excluded by subsection (2)(A) of this rule;

~~(B)~~2. Any UST systems containing radioactive material that are regulated under the Atomic Energy Act of 1954 (42 U.S.C. 2011 and following); or

~~(C)~~3. Any UST system that is part of an emergency generator system at nuclear power generation facilities regulated by the Nuclear Regulatory Commission under 10 CFR 50, Appendix A;

~~(D)~~Aboveground tanks associated with Aairport hydrant fuel distribution systems; and

~~(E)~~UST systemsAboveground tanks associated with field-constructed tanks.

**Suggested Alternate Wording for
10 CSR 26-2.021 Upgraded Underground Storage Tank Systems**

(1) Alternatives Allowed. All underground storage tank (UST) systems which are in-use must comply with one (1) of the following requirements:

- (A) New UST system performance standards in 10 CSR 26-2.020; or
- (B) The *[upgrading]* **corrosion prevention** requirements in sections (3)-(5) of this rule.

(3) *[Tank Upgrading Requirements. Tanks must be upgraded to meet one (1) of the following requirements in accordance with a code of practice developed by a nationally-recognized association or independent testing laboratory:*

[(A) Interior lining. A tank may be upgraded by internal lining if—

1. The lining is installed in accordance with the requirements of 10 CSR 25-2.033 and the following:

A. Lining manufacturer installation requirements; and

B. An approved national code or standard, including those listed in section (6) of this rule; and either

C. For steel tanks, structural integrity determinations are required and must include actual steel tank thickness readings. Approved integrity test methods are included in section (6) of this rule; or

D. For fiberglass-reinforced plastic tanks, all linings must be approved by the tank manufacturer and installed in accordance with the tank manufacturer's requirements.

2. Within ten (10) years after the initial lining, and every five (5) years after that, whether relined or not, the lined tank is internally inspected and found to be structurally sound with the lining still performing in accordance with original design specifications; and

3. A tank may only be relined and/or the lining may only be repaired—

A. If the fiberglass-reinforced plastic tank meets all tank manufacturer standards for repair or relining of the tank; or

B. If the steel tank passes an integrity test, including actual steel shell thickness readings. Approved integrity test methods are included in section (6) of this rule;]

Corrosion Prevention Requirements for Tanks.

(A) Tanks with an Interior Lining.

1. Installation Requirements.

A. Any new lining added to the interior of a tank must be installed in accordance with the lining manufacturer's installation requirements;

B. Any new lining installed after January 1, 2020 must meet the design specifications of the June 14, 2013 edition of Underwriters Laboratories (UL) 1856 *Outline of Investigation for Underground Fuel Tank Internal Retrofit Systems* requirements;

2. Inspection and Maintenance of Lined Tanks.

A. An internal inspection of the tank lining must be conducted at least once every five (5) years;

B. If the inspection concludes the lining is structurally sound and still performing in accordance with its original design specifications, the owner

or operator may keep the tank in use. If it does not, the owner or operator must repair or replace the lining in accordance with the requirements of this rule or properly close the tank in accordance with 10 CSR 26-2.061.

3. Repairs of Tank Lining.

A. All repairs must be done by a properly-certified technician. Repairs of linings of steel tanks must be done by a technician certified by NACE International or the International Code Council (ICC); repairs of linings of fiberglass tanks must be done by a technician certified by the American Composites Manufacturers Association.

B. All repairs must be done in accordance with 10 CSR 26-2.033.

C. A lining cannot be repaired more than two (2) times; if it fails subsequent inspections, the lining must be entirely replaced or the tank must be retrofitted in accordance with paragraph 4 of this subsection.

D. The interior lining of a steel tank may only be repaired if the steel tank passes an integrity test, including actual steel shell thickness readings. Approved integrity test methods are listed in Section (6) of this rule.

E. The interior lining of a fiberglass tank may only be repaired in a manner approved by the tank manufacturer. If the manufacturer is no longer available or willing to repair the tank, the tank may be relined in accordance with The Fiberglass Tank & Piping Institute T-95-1 *Remanufacturing of Fiberglass Reinforced Plastic (FRP) Underground Storage Tanks*, Revised 1995. This document is incorporated by reference without any later amendments or modifications. To obtain a copy, contact the Fiberglass Tank and Piping Institute, <http://www.fiberglasstankandpipe.com>.

4. Retrofit Options

A. An owner or operator may retrofit a previously-lined steel or fiberglass tank with a double-wall or costructural tank that meet the requirements of the June 14, 2013 edition of Underwriters Laboratories (UL) 1856 *Outline of Investigation for Underground Fuel Tank Internal Retrofit Systems*.

B. Any UST retrofitted in this manner must be internally inspected at least once every five (5) years; and

C. The interstitial lining space must be electronically monitored in accordance with subsection (1)(H) of 10 CSR 26-2.043.

Proposed rewording and reformatting of sections (E) through (H) of

10 CSR 26-2.033 Repairs Allowed

(E) Owners and operators must conduct appropriate tests within thirty (30) days of completion of the repair. The tests must meet the following requirements:

1. Repaired tanks *[and piping]* must be tightness tested in accordance with release detection methods listed in 10 CSR 26-2.043(1)(D) or another method approved by the department and no less protective of human health and the environment.
2. Repaired piping must be tightness tested in accordance with 10 CSR 26-2.044(1)(B) or another method approved by the department and no less protective of human health and the environment.
3. When an owner or operator repairs any portion of a UST system that is double-walled, the subsequent test must be designed to confirm the integrity of both walls.
4. When an owner or operator repairs a required containment sump, the subsequent test must be done in accordance with 10 CSR 26-2.035(1)(B).
5. When an owner or operator repairs spill or overfill prevention equipment, the subsequent test must be done in accordance with 10 CSR 26-2.030.

**Suggested Alternate Wording for
New Rule
10 CSR 26-2.035 Testing of Containment Sumps**

PURPOSE: This rule specifies how UST owners and operators must test containment sumps.

(1) By January 1, 2020, owners and operators of UST systems with containment sumps required by 10 CSR 26-2.020 and/or 10 CSR 26-2.021 must ensure their continued integrity.

(A) If the containment sump has two (2) walls, the integrity of both walls must either be checked annually with an interstitial sensor or the inner wall must be tested triennially.

(B) If the containment sump has only one wall, it must be tested at least triennially.

(2) The tests required by this rule must be conducted in accordance with one (1) of the following procedures:

(A) A tightness test developed and published by the manufacturer;

(B) An interstitial test or containment sump test listed by the National Work Group on Leak Detection Evaluations. To obtain copies of equipment certifications, contact the National Work Group on Leak Detection Evaluations, www.nwglde.org;

(C) Petroleum Equipment Institute RP 1200-12, *Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities*. This document is incorporated by reference without any later amendments or modifications. To obtain a copy, contact the Petroleum Equipment Institute, Box 2380, Tulsa, OK 74101-2380, (918) 494-9696, www.pei.org; or

(D) Another method approved by the department, including code(s) of practice developed by a nationally recognized association(s) or independent testing laboratory(ies), determined to be no less protective of human health and the environment than the requirements listed in paragraphs 1. and 2 . of this subsection.

(3) Owners and operators must retain a record of each check or test until the next one is performed.

**Suggested Alternate Wording for
New Rule
10 CSR 26-2.036 Walkthrough Inspections**

PURPOSE: This rule requires owners and operators of USTs to conduct periodic inspections of their equipment.

- (1) This rule applies:
 - (A) Immediately to new UST installations installed after July 1, 2017.
 - (B) On January 1, 2020 to UST systems in operation on or before June 30, 2016.

- (2) Owners and operators must ensure walkthrough inspections are conducted as follows:
 - (A) Spill prevention equipment must be checked at least once every thirty (30) days, or prior to each delivery for USTs that receive deliveries less frequently than once every thirty (30) days. The person conducting the inspection must visually check for any damage, remove liquid or debris, check for and remove obstructions in the fill pipe, check the fill cap to make sure it is securely on the fill pipe, and for double-walled spill prevention equipment with interstitial monitoring, check for a leak in the interstitial area; and
 - (B) Release detection equipment must be checked at least once every thirty (30) days. The person conducting the inspection must check to make sure release detection equipment is operating with no alarms or other unusual operating conditions present and must ensure release detection records are being reviewed monthly.

- (3) At least annually, owners and operators must ensure the following is done:
 - (A) Containment sumps required by 10 CSR 26-2.020 or 10 CSR 26-2.021 must be visually checked for any damage, leaks to the containment area, or releases to the environment; liquid or debris must be removed; and the interstitial area of double-walled containment sumps must be checked for leaks; and
 - (B) Tank gauge sticks or other hand-held release detection equipment must be checked for operability and serviceability.

- (4) Owners and operators may use the following to comply with this rule:
 - (A) Petroleum Equipment Institute RP 500-11, *Recommended Practices for Inspection and Maintenance of Motor Fuel Dispensing Equipment*. This document is incorporated by reference without any later amendments or modifications. To obtain a copy, contact the Petroleum Equipment Institute, Box 2380, Tulsa, OK 74101-2380, (918) 494-9696, www.pei.org;
 - (B) Petroleum Equipment Institute RP 900-08, *Recommended Practices for Inspection and Maintenance of UST Systems*. This document is incorporated by reference without any later amendments or modifications. To obtain a copy, contact the Petroleum Equipment Institute, Box 2380, Tulsa, OK 74101-2380, (918) 494-9696, www.pei.org; or
 - (C) Another procedure approved by the department.

- (5) Owners and operators must maintain records (in accordance with 10 CSR 26-2.034) of the inspections required by this rule for one year. The record must include a list of each area checked, whether each area checked was acceptable or needed action, and a description of any actions taken as a result of the inspection.

Ayers Oil Co.

P.O. BOX 229 • CANTON, MO 63435
573/288-4464

July 26, 2016

Steve Sturgess, Director
Hazardous Waste Program
Department of Natural Resources
PO Box 176
Jefferson City, MO 65102

re: Draft proposed rules governing operation of USTs

Dear Mr. Sturgess:

We appreciate your attendance at the recent PSTIF Advisory Committee meeting and hope you gained some insights into the petroleum industry and the challenges we face with the plethora of regulations we must comply with.

While we appreciate the work your staff has done and your ongoing efforts to communicate with tank owners/operators and equipment companies, we encourage you and your staff to continue efforts to find Missouri-specific ways to meet the EPA rules' objectives. Specifically, this letter formally presents the Committee's request that you alter the current draft of 10 CSR 26-2.040 so tank owners/operators are not required to remove their ATG probes to test them. As indicated at the meeting, there are other methods for assuring that the probes are functioning properly, removal may void equipment warranties, and removal will likely damage many probes and cause needless replacement expense.

We look forward to continuing to work with you and your staff to finalize these new rules.

Sincerely,



Steve Ayers
Chairman
PSTIF Advisory Committee

c: PSTIF Advisory Committee

End
Of
Comment

Peters, Heather

From: Ronald J. Leone <ron@mpca.org>
Sent: Thursday, October 27, 2016 10:35 AM
To: Peters, Heather; Sturgess, Steve
Subject: Tank Rules

Steve & Heather: As you know, the Missouri Petroleum Marketers and Convenience Store Association (MPCA) is a 300+ member statewide trade association which represents most of Missouri's convenience stores, gas stations, truck stops, petroleum marketers and their suppliers.

Please accept this email as a formal comment on the UST rules. MPCA fully supports, and fully incorporates herein by reference, the written comments being submitted by the Petroleum Storage Tank Insurance Fund (PSTIF). We also mirror and herein incorporate the concerns detailed by the 10/24/16 email from Donnie Greenwalt, Wallis Companies, printed in full below.

Thank you for all of your hard work on this important issue.

Please respond and verify receipt.

Best, Ron

Ronald J. Leone, Esq.
Executive Director

Missouri Petroleum Marketers & Convenience Store Association (MPCA)

205 East Capitol Avenue, Suite 200 • Jefferson City, MO 65101 | p: 573.635.7117, ext 160 | c: 573.864.5189

PACE 2017 • February 24 & February 25 • Kansas City, MO

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www.PACEshow.com

From: Greenwalt, Donnie [<mailto:DGreenwalt@mail.wallisco.com>]

Sent: Monday, October 24, 2016 10:17 AM

To: Peters, Heather

Cc: mjordan@mail.wallisco.com; PSTIF Office

Subject: Sump Testing and Other Questions

Importance: High

Good morning Heather!

I just got back from the PEI show at NACs and had a question for you after a session with Carolyn, Mark and Tim.

After 2017, as I understood it, we will have to install sumps on tank tops and under dispensers and they have to be tested every three years. Following the presentation with EPA, I now understand that we will only have to test sumps if we are using interstitial monitoring as our primary form of line leak detection? If we are using PLLD as primary, we shouldn't have to test. Is this correct? I don't see where the new Missouri rule make this distinction.

Also, some interesting information about effective dates and compliance deadlines was also revealed (clarified). I know we had to meet the DW requirement next year, however, according to Carolyn, we did not have to meet the same deadlines as the EPA published in the new tanks rule. It sounded like we could have had up to three years from the effective date of EPA's rule to start our rulemaking process as a SPA state. Also, the SPA would not have been

withdrawn as long as we showed demonstrable progress towards compliance with EPA's rule. Furthermore, I learned that the SPA withdrawal process is not over night but a rather lengthy process. On top of that, we then could have built in a similar 3-year compliance date into our own rule effectively pushing the first compliance deadlines for MO out at least 6 years. Is this correct? Speaking with other operators, this is the first time this clarification has been made by EPA.

Please let me know your thoughts. Thanks!

Donnie



Donnie Greenwalt

Environmental Comp. Mgr

106 E Washington, Cuba, MO 65453

P: (636)549-1611 | F: (636)549-1617

www.wallisco.com

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Peters, Heather

From: Ronald J. Leone <ron@mpca.org>
Sent: Thursday, October 27, 2016 3:27 PM
To: Greenwalt, Donnie
Cc: Peters, Heather; Sturgess, Steve; mjordan@mail.wallisco.com; Andreasson, Rachel; Wallis, Lynn; PSTIF Office
Subject: Re: Comments on Proposed UST Rule Changes

Steve & Heather: MPCA supports these comments and incorporates them into our email of earlier today.

Thanks,

Ronald J. Leone, Esq.
MPCA Executive Director
573.864.5189

On Oct 27, 2016, at 3:03 PM, Greenwalt, Donnie <DGreenwalt@mail.wallisco.com> wrote:

Good afternoon,

Please accept this email correspondence as Wallis Companies' formal comment on Missouri's proposed changes to the Underground Storage Tank Rules.

Wallis greatly appreciates the efforts that the Missouri Department of Natural Resources has made working with stakeholders to implement the provisions of EPA's revised rules. Missouri has a uniquely collaborative regulatory environment that few other states enjoy. This collaboration offers stakeholders and regulators the chance to have constructive dialogue on the rules that govern our industry and the opportunity to ultimately produce a rule package that satisfies the interests of both.

In general, we find the substance of the rule to be agreeable with no major issues. We do, however, offer the following:

- 1) Wallis Companies (Wallis) has concerns regarding the definition of "connected piping" and "underground storage tank". Although we do not have alternative language to propose, we would like to have some clarification and suggest that the shear-valve be used as a line of regulatory demarcation in lieu of the terms "above" and "below" ground.
- 2) Wallis is concerned with the lack of fiscal analysis provided by the Department regarding the new equipment testing requirements. Although, the Federal EPA provided their own fiscal analysis, we do not feel as though it is an accurate representation of the true costs of compliance. This ultimately has left a large portion of the regulated community uninformed.
- 3) Wallis would appreciate clarification or a published policy regarding the Department's position or treatment of failed equipment tests. If it is not the intent of the Department to consider failed equipment tests as "suspected releases" we would like to have that documented as such.
- 4) 10 CSR 26-2.040 (1)(C)1 states that we must test "Automatic tank gauge and other controllers: test alarm; verify system configuration; test battery backup;". Wallis would like to see an

exception to the testing of the battery backup system when information from a tank gauge is stored remotely through a connection with an off-site monitoring system.

If you have any questions or concerns regarding these comments, please do not hesitate to contact me.

Thank you,

Donnie Greenwalt



Donnie Greenwalt
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**End
Of
Comment**

Peters, Heather

From: Beverly Wright <tobithae@yahoo.com>
Sent: Tuesday, October 11, 2016 7:27 PM
To: Peters, Heather
Subject: Changes to DNR ground monitoring regulations

To Whom It May Concern:

My name is Bob Wright and I am writing concerning pending changes to the Department of Natural Resources Regulations concerning ground water monitoring. These changes will affect my operations. My family has owned our station since 1953. We are a full service station in a town of just over 800 people.

In 1998 we made changes to our operations to comply with the then regulations. We were assured that the changes we made would be good and we would not have to change anything again. Now, we are facing having to make another large investment to comply with changing regulations again.

We installed top of the line equipment, and we have kept all equipment in perfect condition.

I respectfully ask that, at the very least, you consider grandfathering in my station. I complied with the changes in 1998 in good faith that this would not have to be changed again.

Thank you for your consideration of the very important issue.

Bob Wright
Wright's Station and Garage
Alton, Missouri

**End
Of
Comment**

Landreth
LAW FIRM

PLC

October 27, 2016

E-Mail: llandreth@landrethlaw.com

VIA U.S. AND ELECTRONIC MAIL

Director, Hazardous Waste Program
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, MO 65102-0176

c/o

Heather Peters
UST Compliance and Technology
Missouri Department of Natural Resources
heather.peters@dnr.mo.gov

Re: Lambert- St. Louis International Airport Hydrant Fueling System/STL Fuel Comments to MDNR Proposed UST Technical Regulations Amendments - MO Register V. 41, No. 18, September 15, 2016

Dear Heather:

Following this letter, please find the questions and comments of STL Fuel Company LLC, who is the Lessee and operator of the fuel system at Lambert- St. Louis International Airport®, regarding the amendments to the UST Technical Regulations as published in the Missouri Register. These comments have been reviewed by representatives of Lambert-St. Louis International Airport, which is owned and operated by The City of St. Louis.

Thank you very much for your cooperation and support regarding the unique fuel system issues at the airport.

Sincerely,



Lloyd W. Landreth *B4 DMK*

LWL/dmk

Redline Edits and Comments of STL Fuel Company LLC to 092016 Proposed UST Rules
(Chronologically by Section #)

Section	Proposed Edit	Comment
26-2.010(4)(A), (B)	(B) Option 2. Permanent closure of the UST system no later than July 1, 2019, <u>or alternative agreement with MDNR prior to July 1, 2019, to close the UST system.</u>	<i>While STL Fuel plans to have the new tank farm operational by July 2019, it is very possible that due to permitting and construction issues, the project cannot be completed by July 2019. It is also important to keep in-mind that the new tank farm will also require a new fuel supply pipeline from the new tank farm to the airport. Because the existing tank farm cannot be decommissioned until the new farm is fully operational, the term "permanent closure" as applied to decommissioning of the existing tank farm, is unclear. As MDNR can appreciate, pulling all tanks and conducting any necessary remediation of the existing tank farm is a significant effort, and will take months to complete after the existing fuel farm is ready for abandonment. The main goal of STL Fuel is to have the new tank farm operational and the existing one defueled by July 2019. Can STL Fuel assume that if we have an ongoing dialogue with MDNR, should the existing tank farm need to be used post-July 2019, MDNR will not initiate an enforcement action?</i>
26.2.012(1)(A)	<u>"Abandonment" means in the context of underground pipelines the use of all reasonable means to remove petroleum from the pipe, physical separation of the pipe from any active fuel system, and the placement of</u>	<i>This definition is important to have with regard to AHS. If in the future AHS not currently under the UST rules are later placed under the rules, then this</i>

	<u>inert gas or inert material in the abandoned pipe.</u>	<i>definition will allow abandonment of fuel lines which are often under several feet of concrete in active ramp or taxiway areas.</i>
26.2.012(1)(B)(5)	“Connected piping” means all <u>underground</u> piping including valves, elbows, joints, flanges, and flexible connectors attached to a UST system through which regulated substances flow. For the purpose of determining how much piping is connected to any individual UST system, the piping that joins two (2) UST systems should be allocated equally between them.	For a UST system, aboveground piping is not included.
26.2.012(1)(D)(6)		<i>Airport hydrant system pipelines are not amenable to being double-walled, versus the typical double-walled application for smaller UST systems at gas stations. STL Fuel requests clarification in the rules that double-walled pipe applications do not include airport hydrant systems.</i>
26.2.012(P)	“Permanent Closure” means solely in the context of airport hydrant systems the <u>permanent termination of use, and implementation of work to ensure the subject tanks, pipelines and related facilities are removed or otherwise decommissioned in an approved manner and planning for any required environmental investigation and remediation is implemented.</u>	<i>There is not a definition for permanent closure, or at least in the context of the July 1, 2019 date. Our comment on 26-2.010(4) (B) above relates to this definition.</i>
26.2.013(2)(B)	By July 1, 2019 for existing systems, except where such requirements are specifically excluded or amended by this rule, <u>or solely in the case of airport hydrant systems, as may otherwise be agreed to by the Owner and the Department.</u>	<i>This addition allows for STL Fuel to exceed the July 2019 date assuming we have worked with MDNR on a final decommissioning schedule in light of construction timing.</i>
26.2.013(5)	Walkthrough inspections. <u>Unless otherwise agreed-to with the department, in addition to the</u>	<i>The inspection frequency called out (once every 30 days if no confined space entry and</i>

	<p>walkthrough inspections in 10 CSR 26-2.036, owners and operators must inspect the following additional areas for airport hydrant fuel distribution systems at least once every thirty (30) days if confined space entry according to the Occupational Safety and Health Administration under 29 CFR Part 1910 is not required, or at least annually if confined space entry is required, and must keep documentation of these walkthrough inspections in accordance with 10 CSR 26-2.036:</p> <p>(A) Hydrant pits—visually check for any damage, remove any liquid or debris, and check for any leaks; and</p> <p>(B) Hydrant piping vaults—check for any hydrant piping leaks.</p>	<p><i>annually with confined space entry) cannot be achieved without significant disruption to the schedules of tenant airlines. The Airport has 136 hydrant pits. Logistically, such an inspection frequency cannot be achieved without gate closures and other actions. The proposed regulations should include a special exception for airport hydrant systems, calling out instead a site-specific work plan, approved by the Department.</i></p>
26.2.013(6)		<p><i>Applicability of closure requirements to previously closed UST systems.” The requirements of 10 CSR 26-2.060 through 2.064 cannot be achieved in all cases at an active airport without significant disruption of essential airport functions. Suggest exempting the Airport hydrant system from the referenced requirements and substituting requirements as presented in a site-specific work plan, approved by the Department.</i></p>
26.2.013 PRIVATE COST	Will cost many multiples of \$500.00.	
26.2.020(1)(A)		<p><i>To the extent STL Fuel might have to exceed the July 1, 2019 deadline for some period of time while the new tank farm is finished, we cannot meet the double-walled requirement for some or the existing USTs at the old tank farm. Please confirm this rule will not apply to existing UST systems, but only new</i></p>

		systems. We interpret the rule as not applying to the existing tanks at STL.
26.2.030(3) (C)	<u>For Airport Hydrant System pipelines, leak testing on at least an annual basis with an industry-standard pressure test method.</u>	Does (4) allow for specific leak test methods for AHS piping? If not, we prefer to be explicit and offer a new subparagraph (3)(C).
26.2.034(1)(A)(3)		The new rule cites 10 CSR 26-2.078 as a requirement for investigation of soil and groundwater. 2.078 in turn cites the Missouri Risk-Based Corrective Action Process for Petroleum Storage Tanks Guidance Document as providing requirements for investigations. The requirements of the Guidance Document could not be implemented without significant disruption of essential functions at the Airport. Suggest revising the proposed rule to allow investigation of airport hydrant systems in accordance with a site-specific work plan, approved by the Department. Similarly, any reference to the Missouri Risk-Based Corrective Action Process for Petroleum Storage Tanks guidance document elsewhere in the proposed rule should include a special exception for airport hydrant systems, calling out instead a site-specific work plan, approved by the Department.
26.2.041(1)(B)(4)(A)	4. Underground bulk piping associated with airport hydrant fuel distribution systems and field-constructed tanks must meet one (1) of the following release detection requirements: A. The requirements in subsection (B)1.B. of this section; or	Subparagraph (4)(A) should have 1.B. added, as for AHS it is the Annual or biennial leak testing for pipelines.

<p>10 CSR 26-2.034 Reporting and Record Keeping or elsewhere where regulatory compliance inspections are cited? Regulatory Compliance Inspections Scope & Frequency</p>	<p>Annual regulatory compliance inspections of Airport Hydrant systems</p>	<p><i>The 2015 Federal UST rules require annual compliance inspections of airport hydrant systems by regulatory authorities. To the extent MDNR can modify those inspection requirements based upon inability to conduct inspections in areas of active airport operations STL Fuel believes such change would not be less stringent than Federal requirements. Instead STL Fuel recommends a site-specific Regulatory Compliance Inspection Plan, approved by the Department.</i></p>
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**End
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Comment**

