



# THE ADMINISTRATIVE WATCH

ADMINISTRATIVE WATCH ADDRESSES ENVIRONMENTAL, HEALTH & SAFETY ISSUES

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## Significant Changes Proposed to the Pennsylvania Storage Tank Regulations

On April 22, 2006, the Pennsylvania Environmental Quality Board (“EQB”) published proposed changes to the regulations promulgated under Pennsylvania’s Storage Tank and Spill Prevention Act (“Tank Act”) (*See* 36 Pa. B. 1851). The proposed rulemaking represents the first major amendment to the Tank Act regulations (25 Pa. Code Chapter 245) since 1997. The proposed rules would amend virtually every subchapter of the Tank Act regulations. Although the EQB characterizes many of the proposed rules as simply clarifying the existing regulations and formalizing policies currently implemented by the Pennsylvania Department of Environmental Protection (“DEP”), the proposed regulations contain many substantive changes to the Tank Act program.

Amendments have been proposed to Subchapter A of the regulations to increase the scope of storage tanks covered by the Tank Act rules. The definition of “regulated substances” has been revised to add broad new categories of chemical substances, including non-petroleum oils (including bio-diesel and synthetic fuels) and compounds used as gasoline additives (such as ethanol). In addition, the EQB has proposed to amend the term “consumptive use” to re-regulate aboveground storage tanks holding heating oil which have a capacity in excess of 30,000 gallons. Additional changes to this subchapter include new rules governing tank registration which add new deadlines and provide DEP with expanded enforcement authority to withhold or deny operating permits.

Subchapter B of the proposed regulations would modify the certification program for storage tank installers and inspectors. The proposed rules would reduce the number of qualifying activities required to obtain certification and add new training standards. The proposed rules have been amended to provide that violations of the Air Pollution Control Act or failure to perform underground tightness testing in accordance with the rules could result in the suspension of certification. The proposed rules also expand the circumstances in which the DEP may withhold company certification.

Subchapter C of the proposed rules would amend the manner in which permits are issued for underground and aboveground storage tanks. The proposed regulations authorize DEP to request construction design criteria and engineering specifications as part of a site specific installation permit.

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The proposed rules would revise the technical standards for underground storage tanks (“USTs”) found in Subchapter E of Chapter 245. The proposed rules include, but are not limited to, the following revisions:

- newly regulated UST systems must be registered within 60 days and must receive applicable upgrades within 3 years;
- the routine facility inspection frequency has been increased to 3 years for all UST systems from the existing 5–10 years;
- the entire piping portion of an UST system must be upgraded to total secondary containment whenever more than 30% of the piping system is replaced;
- new UST systems must install double wall containment systems and a more rigorous type of line leak detection system than currently required under Chapter 245 or the federal storage tank regulations; and
- UST systems using interstitial monitoring or electronic line leak detection systems must upgrade from an alarm to an automatic shut-off device within 2 years.

Subchapter F of the regulations governing technical standards for large aboveground storage tanks (“ASTs”) would also be modified by the proposed rules. The proposed changes include the following:

- ASTs that became regulated due to the expanded definition of regulated substance must be registered within 60 days of the new rules;
- ASTs becoming regulated due to the change in regulated substance must be fitted with overfill monitoring within 3 years;
- newly regulated ASTs must undergo in-service inspection within the later of: (a) 3 years from the issuance of the new rules or (b) 5 years of the date of construction or the last inspection;
- existing ASTs must be upgraded with a high level alarm and a cut-off device or a manned operator procedure within 3 years;
- all existing ASTs must be protected by emergency containment structures within 3 years (even if the next scheduled out-of-service inspection will not occur by that date); and
- existing ASTs undergoing an out-of-service inspection may be required to undergo more rigorous tank bottom evaluations.

In addition to the above, changes have been proposed to Subchapter G (relating to the regulation of small ASTs) which parallel those proposed for Subchapter F. Also, the EQB has proposed minor editorial revisions to Subchapter H (relating to financial assurance).

The proposed regulations provide for the submission of public comments. To be considered, written comments, suggestions or objections must be received by the EQB by **June 29, 2006**. Comments may also be submitted electronically to the EQB by the same date. If you would like to discuss the potential impact of these proposed new rules on your operations, or you would like assistance in submitting comments to the EQB, please contact Joseph K. Reinhart at 412-394-5400 or [jreinhart@bccz.com](mailto:jreinhart@bccz.com).