

Sept. 3, 2019

From: Ellen Valentino  
On behalf of Mid-Atlantic Petroleum Distributors Association  
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Re: Comments Regarding 1351 Underground Storage Tank Systems Regulations

MAPDA still has two specific concerns with the proposed regulations and they are detailed below:

**Part B, Section 1.31.1.6**

**Action Requested: Remove the 1/8" slope requirement; not necessary; DNREC's rationale inconsistent.**

1.31.1.6 - Routine Inspections; Submersible pump containment sumps are permitted to be inspected once every 12 months instead of every 30 days. There is a list of conditions, including continuous interstitial monitoring of the piping system. However, also included is that all piping must have 1/8" slope. This means that any system installed without slope will not be able to take advantage of the once every 12-month inspection interval. There is no reason for this, and it stands out as an unnecessary burden to installing a system without 1/8" slope.

Rationale:

In the letter from July 16, 2019, DNREC contends that "there remains a healthy concern regarding how passive continuous interstitial monitoring of "flat" product piping systems will accurately and effectively work to detect leaks as compared to a sloped system." Taking these concerns at face value, there are two possibilities for a system without 1/8" slope:

- 1) The continuous interstitial monitoring of the "flat" piping does work as accurately and effectively as a piping system with slope. In this case there is no need for a 30 day inspection interval since the system is working as those permitted to be inspected once every 12 months.
- 2) The continuous interstitial monitoring of the "flat" piping does not work as accurately and effectively as a piping system with slope. In this case there is also no need for a 30 day inspection interval. If the system is not moving product back to the submersible containment sump where it can be detected by the required sump sensor there will be nothing in the sump to observe on a 30 day inspection, even if there is a leak somewhere in the piping.

Perhaps an even more important item to recognize is that all piping systems permitted in the regulations are in fact 1/8" sloped systems as it relates to the submersible pump containment sumps. Section 1.14.7 requires that product piping from the dispenser sump closets to the UST System STP shall be sloped at a minimum of 1/8" back to the submersible containment sump. Section 1.14.3 requires that the dispenser product piping jumper tubes shall be removed or the product piping test boots pulled

back to allow the interstice to be open to the dispenser sump sensors. This means that the only functioning continuous interstitial monitoring that can possibly exist from the STP containment sump is only between the sump and the first dispenser - and this piping must be sloped 1/8" back to the tank.

These items clearly show that there is no desirable reason for 30 day inspections of the submersible sump in a product piping system that does not have 1/8" slope. This requirement in section 1.31.1.6.2 as it relates to product piping is a leftover note from prior versions of the regulation before the 1/8" slope exemption was placed in the regulations. There is no reason for its continued inclusion in these regulations.

#### **Part B, Section 1.25.4.2**

**Action Requested: Recognized the EPA low-level liquid alternative integrity test method; and provide a fiscal impact.**

The EPA has recognized a low-level liquid alternative integrity test method for sumps used as secondary containment and interstitial monitoring for UST system piping as "equally protective of the environment". In a response to the USTAC on July 16, 2019, DNREC state that they agreed with that statement when it said, *"The EPA has indicated that they will accept the low-level method to satisfy their testing requirements, but the State of Delaware does not agree with that assessment; has the authority to be more protective of the environment; and will not accept low-level liquid integrity testing of sumps."*

The Department is correct that it has the authority to disagree with the EPA on this item and require other testing methods. However, the Department is also required by Delaware law to conduct a Regulatory Flexibility Analysis to consider "applicable, lawful, feasible, and desirable" methods of reducing additional costs and burdens of proposed regulations. In addition, a Regulatory Impact Statement must provide a "good-faith estimate of the potential cost of compliance".

The Regulatory Flexibility Analysis and the Regulatory Impact Statement for these proposed regulations make no mention of the requirements of Section 1.25.4.2, the technical reasons for requiring a more stringent standard, or the costs associated with compliance with that more stringent standard. These documents must be corrected to show the detail required by Delaware law.