

MPMCSA FUEL LINE

January 7, 2010

The Association newsletter published periodically will no longer be sent in a printed, mailed format. It will be sent to the membership electronically and will be available on the website at www.wpma.com. At times the bulletin will be faxed if containing information deemed of high importance as is the case with this edition. This first publication of the New Year contains information about recently adopted rules or pending rule notices. Please take time to read it as the issues outlined will affect your business.

UST OPERATOR TRAINING: Late last fall the Department of Environmental Quality (Underground Tank Division) adopted several new rules that will affect your business. The first of these will implement the 2005 Federal Energy Act requirements for operator training of underground storage tank systems. While the State of Montana is required to meet the minimal guidelines of the Environmental Protection Agency it has also adopted rules that are more stringent than the EPA's. It is important that you know what the requirements are and that the deadline for compliance is August 10, 2010.

- The regulations create three classes of "operator" that require a specific training criteria.
 - (1) Class A operator – means an owner or operator of an UST facility whose primary responsibility is to operate and maintain the UST system. A Class A operator's responsibilities also include managing resources and personnel to achieve and maintain compliance with regulator requirements.
 - (2) Class B operator – means an owner or operator of an UST facility whose primary responsibility is to implement the applicable underground storage tank regulatory requirements and standards in the field. A Class B operator implements day-to-day aspects of operating, maintaining, and recordkeeping for underground storage tanks at one or more facilities.
 - (3) Class C operator means an employee of the owner or operator of the facility who is responsible for responding to alarms or other indications of emergencies caused by spills or releases from UST systems. A Class C operator notifies the Class B or Class A operator and appropriate emergency responders when necessary. **NOTE:** A Class A operator could also be a Class B and C operator; A Class B operator could also be a Class C operator.

- If the Department determines that a facility does not meet the significant operational compliance (SOC) requirements for release prevention and release detection measures, the appropriate operators must be retrained in those areas of non-compliance. Retraining must occur within 90 days after the determination or, a longer period established by the Department in writing on a case-by-case basis.

- Class A & B operators who choose department-sponsored training shall pass a department administered test with at least an 80% score.
Class C operators who:
 - (a) choose department-sponsored training, shall pass a department administered test with at least an 80% score; or

- (b) are trained by a trained Class A or B operator, shall successfully complete a practical demonstration or other evaluation procedure determined to be acceptable by the department and pre-approved by the department in writing.
- After August 10, 2010 a trained Class A or B operator may be replaced by an untrained operator if within 30 days after assuming operation responsibilities the new operator receives the appropriate training.
 - The owner/operator shall keep the operator training records for at least three years after the person served as a Class A, B, or C operator at the facility.
 - All classes of operator must be trained by August 8, 2010. **NOTE:** The Association obviously opposed this part of the rule as Federal guidelines cite August 10, 2012 for compliance. When the DEQ adopted the rule as is, we again wrote them stating our opposition and asked for some leeway. They agreed that perhaps they should have compromised and stated they will apply enforcement discretion prior to December 31, 2010. We take that to mean that if there are circumstances that prohibit an owner/operator from completing the training by August 10th no violation will be assessed.
- NOTE:** The Association will be offering a workshop training session at the convention in June for Class A & Class B operators. Further information will be available soon.

RELEASE DETECTION METHODS/TESTING: The second set of rules involves release detection methods and the testing of piping sumps that are associated with double-walled piping systems. Here are the critical points of the new rules:

- Owners/operators will specify on their inspection report the “primary leak detection method” used at the facility. This distinction is necessary because the specification of interstitial monitoring as the primary method of leak detection will require sump functional testing to ensure liquid tightness and to detect sump failures.
- All leak testing results required by the rule must be observed by the owner, operator, or facility employee and, the owner or operator shall document and retain the results.
- After December 31, 2010 any automatic tank gauging equipment, vapor monitoring equipment, ground water monitoring equipment, or interstitial monitoring equipment that has the capability must set the leak detection console to temporarily disable the system after a failed leak test. In addition, if the leak detection monitoring equipment has the capability, an owner/operator that conducts pipe leak detection shall set the console to temporarily disable the pumping system after a failed leak test.
- An owner/operator may not restart the system(s) until an investigation of the alarm condition is conducted in accordance with the leak detection equipment manufacturer’s requirements, the investigation requirements of the DEQ and, the operator has determined a release has not occurred.

- An owner/operator of an UST who conducts piping interstitial monitoring as the leak detection method shall conduct one of the following tests to determine liquid tightness:
 - Hydrostatically test all containment sumps once every three years;
 - Vacuum or pressure test containment sumps in accordance with manufacturer's instructions;
 - Or, functionally test sumps as recommended by the manufacturer.

- Initial containment sump functional tests at each facility must occur prior to December 31, 2012, but are not required before December 31, 2010.

NOTE: An owner/operator may bypass any integrity testing IF the piping system uses a method of pipe leak detection **OTHER THAN INTERSTITIAL MONITORING AS YOUR "PRIMARY METHOD" OF LEAK DETECTION.** (Such as Electronic Line Leak Detectors.) This can be of benefit to operators who choose to not integrity test their sumps but, the alternative method must be declared as "primary" on the inspection report.

SPCC REGULATION/COMPLIANCE UPDATE

This is an overview of the final SPCC regulations as amended over the last five years.

- **SPCC Compliance Date Amended**
 - On June 19, 2009, the EPA published a compliance date extension for all facilities until November 10, 2010. This means all facilities that are required to have SPCC plans must amend or prepare, and implement SPCC plans by the compliance date.

- Under the final rule, owners or operators of a petroleum bulk plant facility in operation on or before August 16, 2002 must maintain their existing SPCC plan, make any necessary amendments to the plan and fully implement it by November 10, 2010. If the facility came into operation after August 16, 2002 but before November 10, 2010 the facility is required to implement an SPCC plan on or before November 10, 2010.

- **New Definition of "Facility"**. – Gives bulk plant owner or operators discretion in determining which contiguous or non-contiguous buildings, structures, parcels, etc. make up the "facility" for purposes of compliance with the SPCC rule.

- **New Definition of "Loading Rack"** – Narrows the range of equipment considered a loading rack for purposes of providing sized secondary containment and exempts loading racks from secondary containment requirements servicing USTs.

- **Simplified Plans for Bulk Plants under 10,000 Gallons, Tier I facilities** – Establishes streamlined compliance procedures for small bulk plants under 10,000 gallons of aggregate capacity with no single storage tank greater than 5,000 gallons. Allows use of an SPCC template.

- **Security Requirement Amendment** – Allows an owner or operator of a bulk plant to tailor security measures to specific characteristics and location of the bulk plant facility. Fencing entire facility may not be required.

- **Secondary Containment for Parked Cargo Tank Vehicles Amendment** – The final rule eliminates the sized secondary containment requirements for cargo tank

vehicles containing product that are parked at bulk facilities between deliveries (generally overnight). Eliminates the current requirement that these trucks be parked within secondary containment structures.

MILK CONTROL BOARD/12-DAY “SELL BY” RULE

Those of you who are affected by the controversy surrounding the shelf life dating of milk, and the exemption that was created to allow for “dual” dating should be aware that a public hearing will be held in Helena on March 3rd & 4th 2010 to determine if new rules should be considered. The Milk Control Board, in response to a petition filed by Core-Mark International will hear formal testimony on March 3rd regarding Core Mark’s proposal to extend the sell-by date from 12 to 18 days. The proposal also would prohibit more than one sell-by date to be displayed on milk containers. On March 4th at 1:00 p.m. anyone who wishes may appear and give public comment regarding the proposal. The hearings will be held in Room 319 at the Scott Hart Building, 301 N. Roberts. If you would like a copy of the formal rule notice and proposed language you can access it here at; <http://www.mtrules.org/gateway/ShowNoticeFile.asp?TID=2193>.

A Coalition has been formed; “Friends of MT Milk Retailers and Consumers” to encourage support of the rule change. The coalition is seeking monetary and personal support. You may contact Pay Roylance at (406) 494-2305 for further information.