



April 8, 2008

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Executive Director

Mark Larson

Mr. Bob Lucht
Storage Tank Program
Herschler Building, 4W
122 West 25th Street
Cheyenne, WY 82002

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Terri A. Lorenzon, Director
Environmental Quality Council

Re: Class B Operator Training – Request for Information

Dear Mr. Lucht,

Thank you for the discussion on Monday regarding compromise on the Class B Operator training. While we are pleased that the Department has agreed to raise the number of facilities over which a Class B Operator may have oversight (six), the additionally required “twice weekly” visitation by a Class B Operator has caused further inspection. Moreover, recent events have also come into play that warrant further discussion before the petroleum marketers can fully understand the Department’s steadfast adherence to stringent requirements relative to actual and historic need. To the point and as a result of the below information, we are no longer in agreement with limiting Class B Operators oversight limitation, especially given the new restrictive visitation requirements. As we have worked through this process with the Department, it has become clearer and clearer, in our opinion, that the proposed regulations are not genuinely written in the spirit of the EPA guidelines. Please let me explain.

I recently had a conversation with Mr. Tim Smith, U.S. EPA Office of Underground Storage Tanks, regarding the implementation of the Energy Policy Act of 2005 Operator Training requirements. The purpose of the call was to assess what other states are doing relative to the Class B Operator Training guidelines prescribed in the Act.

Mr. Smith had no information about specific states (stating that most states have only begun the process) however we did discuss the Act. I came away from that conversation with a clear understanding that; 1.) the EPA allows the states an unprecedented amount of flexibility in crafting workable solutions to meet the requirements, and 2.) the states can be as stringent or as lenient as they deem appropriate to meet each state’s particular needs.

To that end, I would submit that the status quo of operational experiences in Wyoming relative to the implementation of overly stringent Class B Operator Training facility oversight limitations are incongruent. Moreover, with the implementation of Class C Operator training requirements, are not

the intended health, safety and welfare expectations of protecting natural resources and the citizens of Wyoming increased exponentially? As I have stated in previous communications, the Wyoming Petroleum Marketers take this responsibility very seriously and will assure compliance. Twice-weekly visits are questionably unnecessary and will result in no net gain.

With the assurance that someone in every facility is monitoring daily functions and knows how to handle emergencies and the appropriate actions to be taken in case of a release or accident, the need to have an ICC-certified Class B Operator with oversight limited to only six facilities, requiring twice-weekly visits, can easily be construed as overly stringent. Every station has daily routines that they follow. A Class B Operator can easily monitor and effectively administer many facilities on an infrequent basis without compromising any of the intent and expected outcomes of the EPA guidelines.

It is WPMA's contention that restricting Class B Operator oversight to only six facilities is not substantiated by incident analysis or historical data. This letter is sent requesting whatever data the Department utilized in developing this recommendation that would demonstrate the necessity of limiting Class B Operator oversight over so few facilities while also necessitating "twice weekly" visitation. It is our contention that with the Class C Operator requirements and daily monitoring, a Class B Operator's thorough monthly inspection would meet Wyoming's historic needs and more than satisfy the EPA requirements.

With the above information request in mind, it is important to reference four of seven factors the EPA is required to consider when reviewing proposed plans, specifically (quoting the EPA guidance document):

- The high turnover rate of tank operators and other personnel.
- The frequency of improvement in underground storage tank equipment technology.
- The business in which tank operators are engaged.
- The substantial differences in the scope and length of training needed for the three classes of operators.

While we recognize there are requirements within the guidelines not referenced here within, these requisite considerations seem particularly poignant to this discussion.

Having served on the Colorado Energy Policy Act of 2005 Implementation Working Group that developed the Colorado regulations required by the Act, I couldn't help but mention the significant disparity between guideline interpretations. Indeed, the Colorado proposed regulations allow unlimited Class A Operator and Class B Operator oversight as long as the Class C Operator training is in place, **provided** that a Class B Operator performs a thorough inspection of every facility once every month. I am enclosing a copy for your review.

The WPMA respectfully requests an explanation of what factors the Department considered in formulating the originally proposed requirement for a Class B Operator to be onsite for every facility! We are not understanding what the Department has experienced historically that would call for such heightened sense of urgency in proposing these requirements, especially with all of the monitoring technology, alarms, and daily tank readings ...as well as a Class C Operator oversight being in place. Movement on behalf of the Department pursuant to our deliberations to allowing six facilities for Class B Operator oversight begs the question, "Why limit the number to even six?"

Thank you for your time and consideration. I look forward to reviewing whatever data or historical evidence would warrant limiting Class B Operator oversight and how those restrictions were developed in lieu of all the additional requirements within the guidelines.

Mr. Lucht, you have been very engaging in this discussing and it is greatly appreciated. Unfortunately, sometimes in such discussions, new perspectives are gained that need clarification and exploration. I know you will understand that the petroleum marketers simply seek to achieve a symbiotic relationship of regulation vs. need. Until we have a clear understanding of that relationship and assure ourselves that both parties (private industry and government) issues have been fully addressed (as the EPA envisioned), endorsement of any proposal must be thoroughly examined. Thank you again for your indulgence.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Larson".

Mark Larson
Executive Director

Cc: Mr. Dennis Boal, Chairman
Environmental Quality Council
122 W. 25th St.
Herschler Bldg., Rm. 1714
Cheyenne, Wyoming 82002

Attachment: Colorado Department of Labor and Employment, Division of Oil and Public Safety, Storage Tank Regulations – Final Draft