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Terri A. Lorenzon, Director
Environmental Quality Council

May 9, 2008

Mark Larson, Executive Director
Colorado Wyoming Petroleum Marketers and Convenience Stores Association
4465 Kipling St., Suite 104
Wheat Ridge, CO 80033

RE: Operator Training

Dear Mark:

I represented small business petroleum markers and convenience store operators on the U.S. EPA Industry Stakeholder Group responsible for developing grant guidelines that states must follow when implementing the UST operator training requirements pursuant to the Underground Storage Tank Compliance Act of 2005¹ (Act). The Stakeholder Group was tasked with developing definitions for the three operator classes outlined in the Act as well as identifying responsibilities and key knowledge required for each class.

The stakeholder group agreed that the Class "A" operator is generally a person who oversees UST systems at all company owned and operated sites. The Class A operator may or may not be on-site everyday. The Class "B" operator is usually a general manager of companywide c-store operations having daily responsibility for the operation and maintenance of underground storage tank systems. The Class "C" operator is always the c-store clerk with daily onsite responsibilities for emergencies and any UST operational requirements that may be necessary in the normal course of a day. The group also acknowledged that in smaller companies, it is not unusual for the Class A and Class B operators to be the same person. In a single store operation, all three classes are likely to be one individual.

It was the understanding of the stakeholder group that the final guidelines should allow states to combine the three classes in whatever combination necessary to reflect the personnel hierarchy of a company so as not to be overly burdensome on small businesses. Without this flexibility, c-store owners would be required to hire additional personnel to fill all three operator classes, which is contrary to the spirit of the stakeholder group and the clear intent of Congress.

I can say clearly and unequivocally that it was not the intent of the group to require Class B operators to make multiple weekly visits to each UST site. This would have been considered unnecessary and overly burdensome. The class B operator for small business convenience store operators was identified as an *off-site* UST manager. The stakeholder group intent was that in cases where the B operator was not located on site, the C operator would receive additional training in the daily operation of UST systems. In this way, the absence of a B operator on site would not reduce the level of environmental protection intended under the Act.

¹ Energy Policy Act of 2005, Title XV, Subtitle B, Section 1524

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It is important to keep in mind that the Underground Storage Tank Act was *proposed* and *supported* by the convenience store industry as a way to spend down the \$2 billion Leaking Underground Storage Tank Trust fund. The industry championed the Act with the understanding that the EPA and states would take a flexible approach administering the requirements in a way that would be beneficial to both the environment and the industry. Requiring multiple on-site weekly visits by the B operator is precisely the kind of overly burdensome and inflexible approach that Congress, the EPA and the stakeholder group intended to avoid.

I hope that this brief background gives you a clear insight on the intent behind the Act and the EPA guidelines. Both were efforts by the industry to create a flexible regulatory framework that would achieve a higher level of environmental protection while not imposing unnecessary burdens on small businesses. I do not believe that the proposed Wyoming operator training requirements reflect the degree of flexibility or recognition intended by the Act of the EPA guidelines.

Sincerely,

Mark S. Morgan
Regulatory Counsel

Petroleum Marketers Association of American