ARC 0559C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 455B.474(3)"d," the Environmental Protection Commission hereby amends Chapter 135, "Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks," Iowa Administrative Code.

This amendment rescinds paragraph 135.5(1)"e" and adopts a new paragraph in lieu thereof. The purpose is to extend by one year the compliance deadline for underground storage tank leak detection system upgrades at unstaffed facilities that use pressurized piping. Changing the deadline from January 1, 2013, to January 1, 2014, will provide owners of unstaffed facilities additional time to comply with the rule and will allow time for the Department of Natural Resources and stakeholders to work together to address concerns raised since the existing rule's adoption.

In compliance with Iowa Code section 17A.4(3), the Commission finds that notice and public participation are unnecessary because rescission and replacement of this paragraph simply changes the compliance deadline and has no material effect on leak detection requirements or other aspects of the rule.

The Commission also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of this amendment should be waived and this amendment should be made effective upon filing, as it confers a benefit upon a segment of the public by providing owners of unstaffed facilities additional time to comply with the rule.

The Commission adopted this amendment on December 18, 2012.

This amendment is also published herein under Notice of Intended Action as **ARC 0560C** to allow public comment. This emergency filing permits the Department to implement the changes to the rule.

After analysis and review of this rule making, a positive impact on jobs could exist. Because of the change in the compliance date for installing new leak detection equipment, owners of affected sites will be able to delay the cost of purchasing and installing new equipment until the Department has had additional time to study the effectiveness and potential use of alternative leak detection compliance methods. It is the intent of the Department to work with stakeholders to identify leak detection methods that are both cost-effective and environmentally protective in order to further amend the paragraph prior to the new January 1, 2014, deadline.

This amendment is intended to implement Iowa Code sections 455B.474 and 455B.474A.

This amendment became effective December 19, 2012.

The following amendment is adopted.

Rescind paragraph **135.5(1)"e"** and adopt the following **new** paragraph in lieu thereof:

e. UST systems using pressurized piping that operate with no on-site personnel shall comply with the following requirements:

(1) Whenever an in-line leak detector is installed or replaced, it must be capable of shutting down the submersible pump.

(2) Existing sites with an in-line leak detection system in place on February 17, 2010, may continue operation provided that, by January 1, 2014, either of the following UST system modifications is made:

1. An in-line leak detector capable of shutting off the submersible pump is installed; or

2. The UST system is equipped with a device that immediately alerts the Class B operator or designee when a leak is detected. The Class B operator or designee shall be on site within two hours of notification and shut down the submersible pump. The UST system cannot be returned to service until the problem that caused the release response is resolved.

3. A temporary extension of time to meet these upgrade requirements may be granted if it can be shown that there is no reasonable alternative fueling source in the vicinity or fueling is needed to satisfy emergency or public safety considerations. The request for temporary extension must include documentation and a plan for upgrading prior to January 1, 2014.

(3) At sites with secondary containment sumps and continuous automatic sump sensors for leak detection monitoring, the continuous automatic sump sensors must shut off product flow when a leak is detected. If it is determined that a malfunction of the leak detection system is the cause of the shutdown, the UST system must be immediately repaired but may continue to be operated while the repairs are made.

[Filed Emergency 12/19/12, effective 12/19/12]
[Published 1/9/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/9/13.