



UST QUARTERLY



The Newsletter of the Kentucky Underground Storage Tank Program

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For more information, comments or story suggestions, please contact Virginia Lewis. She can be reached at Virginia.Lewis@ky.gov or 502-564-5981, ext. 4024.

This document is not intended to provide a legal analysis or interpretation of the amendments and does not cover every detail of the amendments. It is incumbent upon you to read the regulations and the outlines.

**To report a release or suspected release call the ERT hotline.
1-800-928-2380**

New and Improved UST Regulations Changes that “Made the Cut”

Measure twice, cut once – after four years in the development stage, new and improved underground storage tank (UST) regulations are here. What changes made the final cut?

The previous regulations had to be revised to incorporate requirements of the Federal Energy Policy Act of 2005 – secondary containment, delivery prohibition and operator training. Changes that will expedite the cleanup process and streamline the reimbursement procedures also made the final cut.

While all changes to the UST regulations are important, this issue of the UST Quarterly highlights a checklist of the major changes related to each program area. A comprehensive document detailing all changes in the UST regulations will be available on the UST Branch website at <http://waste.ky.gov/ust>. Watch there for more details.

The new UST regulations became effective Oct. 6, 2011. They can be accessed on the Kentucky Legislative Research Commission’s website (in Chapter 42) at <http://www.lrc.ky.gov/kar/TITLE401.HTM>.



Operational Compliance

✓ Secondary Containment – New or replaced tanks, piping and spill buckets, installed after April 1, 2012, must be designed and manufactured with double-walled construction. Liquid-tight sumps and under-dispenser containment are also required for new or replaced systems. (UST System Installation and Maintenance Outline, 42:020)

✓ Delivery Prohibition – There are now provisions for the process of prohibiting delivery to individual tanks that are out of compliance with the requirements for spill prevention, overflow prevention, release detection, corrosion protection or if a leaking tank system component is not repaired or replaced. Delivery prohibition is invoked upon the issuance of a second Notice of Violation (NOV), if the responsible party fails to comply with the initial NOV. (42:045)

✓ Operator Training – A web-based training program is being developed for training UST system operators. It will provide site-specific training based on a UST facility’s UST system. The tank owner is required to designate a person or persons to be trained as the designated compliance manager (DCM) for their UST facility, through completion of the online training. Completion of the training will result in the generation of a site-specific management plan for the UST facility that will supply details of the system and associated requirements for testing and inspection. Accommodations will be made to allow tank owners without Internet access to utilize equipment available at the nearest Division of Waste Management regional office for Internet access and video conferencing if direct assistance from compliance staff in Frankfort is needed to complete the training. (42:020)

✓ A verification of installation including photos will now be required for the installation of new UST systems or entire piping runs on Form DEP 7115 within 30 days after installation. This is effective beginning April 1, 2012. (42:020)

✓ Internally lined tanks must be upgraded with external corrosion protection or permanently closed by Dec. 22, 2013. If the system is upgraded, a manned-entry integrity assessment shall be performed not more than 12 months prior to the addition of an impressed current cathodic protection system. The results of the manned-entry integrity assessment shall be submitted on DEP 8050 to the UST Branch within 30 days of being conducted. (42:030)

Visit our website today at <http://waste.ky.gov/ust>.

Closure, Site Assessment and Remediation

- ✓ The number of classifications in the Classification Outline has been simplified and reduced to two classes. Class A and Class B correspond to the former Class III and Class IV. Classes I and II have been eliminated. All UST owners/operators are required to classify under the new regulations regardless of previous classification, with the exception of those UST facilities that submitted a Notice of Intent or reported a release prior to April 18, 1994.
- ✓ Environmentally sensitive features have been removed from the criteria for classification, and the classification guide has been simplified. The site-specific evaluation performed in the corrective action process will take these features into consideration as necessary.
- ✓ The classification process now establishes soil and groundwater “screening levels” for the purpose of permanent closure and site investigation assessments, as opposed to final cleanup standards that apply through the corrective action process. More site-specific data and common scenarios found in Kentucky will be considered when determining the final clean up goals in Corrective Action. (Closure Outline, 42:070; Site Investigation Outline and Corrective Action Outline, 42:060; and Classification Outline, 42:080)
- ✓ Three groundwater tables that reflect levels generated by the UK Study for BTEX constituents are now included in the Classification Outline.
- ✓ Sampling requirements – Changes include the following: The permanent closure sampling requirements for tank pit excavations and piping trenches of “every 25 feet” has been extended to “every 35 feet.” A “trip blank” is required for BTEX water samples. The “one meter assessment” requirements have been removed. (Closure Outline, 42:070; and Site Investigation Outline, 42:060)
- ✓ If piping is replaced within the same piping trench, a closure assessment report is no longer required for the removal of the original piping. A closure assessment report will only be required if piping is removed and not replaced in the same piping trench. (Closure Outline, 42:070)
- ✓ The depth to groundwater is no longer a limiting factor in the use of the elevated groundwater screening levels in Groundwater Table 2 and 3.
- ✓ The Certification of Properly Cleaned USTs (DEP5039) form is a new requirement. (Closure Outline, 42:070)
- ✓ Contaminated soil being disposed or treated may only be transported to a facility holding a formal permit issued by the Solid Waste Branch of the Division of Waste Management. (Closure Outline, 42:070)
- ✓ Statistical analysis can now be used to determine whether residual soil contamination requires further action. This process will generally apply to “soil only” contamination at UST facilities where no groundwater impacts have been identified. (Site Investigation Outline, 42:060)
- ✓ Emphasis has been added to the inclusion of recommendations from the P.E./P.G. as part of site investigation reporting. Additional reimbursement has been included for reporting costs. (Site Investigation Outline, 42:060; and Contractor Cost Outline, 42:250)
- ✓ The Corrective Action Outline has new requirements that will allow more effective remedial efforts to be developed for contaminated UST facilities. One of the new requirements is the development of a “conceptual site model” (CSM). The CSM will take into account the local geology, a determination as to whether impacted groundwater constitutes a useable groundwater resource (quantity/quality), plume stability, and the fate and transport of contamination in relation to exposure pathways and usable groundwater. From this, the final goals for soil and groundwater cleanup may differ from the applicable screening levels (more stringent or less stringent as appropriate). (Corrective Action Outline, 42:060)
- ✓ There are new and separate definitions for the terms domestic-use cistern, domestic-use spring, and domestic-use well. (42:005)
- ✓ Vapor Intrusion – There are new forms and standardized reporting requirements for the assessment and mitigation of vapor intrusion impacts within occupied structures. (42:060)



Story Ideas? Tell us what you think.

Let us know if there is something you would like to see in the UST Quarterly.

Send your bright ideas, suggestions and photos to
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Petroleum Storage Tank Environmental Assurance Fund Claims and Payment



- ✓ The UST Facility Ranking system has been redeveloped to incorporate the applicable groundwater table, and has been reduced from six ranks to five. All UST facilities will be re-ranked under these new regulations. UST facilities in the corrective action phase will also be ranked. (42:290)
- ✓ All written directives issued by the UST Branch after Oct. 6, 2011, will be issued with a reimbursable amount established in the written directive. (42:250)
- ✓ An entry level will be assessed against a new Application for Assistance (AFA) submitted after Oct. 6, 2011, regardless of the applicant's participation in the Small Owners Tank Removal Account (SOTRA). (42:250)
- ✓ A Payment Verification Affidavit Form DEP6075 and if applicable, a Payment Waiver Form DEP6077 shall be submitted with every claim request, including those associated with a written directive issued after Oct. 6, 2011. (42:250)
- ✓ The rates established in the Contractor Cost Outline (April 2011) only apply to the directives issued after Oct. 6, 2011 and only apply to drum disposal costs for those drums disposed of after Oct. 6, 2011. (42:250)
- ✓ If a contract is terminated and a new contract is executed and submitted after Oct. 6, 2011, a notarized Affidavit of Termination of Contract DEP0061 (April 2011) along with the newly-executed contract shall be submitted to the UST Branch. (42:250)
- ✓ Reimbursement for actions directed and documented by the Environmental Response Branch during an emergency after Oct. 6, 2011, will not be governed by 401 KAR 42:250.
- ✓ Reimbursement will be made for transportation, disposal or treatment of contaminated water or soil above screening levels encountered in the excavation zone. (42:250)
- ✓ All directives issued prior to Oct. 6, 2011, will be reimbursed in accordance with the regulations in effect at the time of the issuance of the directive letter. (42:250)
- ✓ Any company contracting with an applicant seeking reimbursement from the Petroleum Storage Tank Environmental Assurance Fund (PSTEAF) must be an eligible company or partnership regardless of when the release occurred. The PSTEAF Eligible Company or Partnership Application DEP6073 (April 2011) shall be submitted by Jan. 1, 2012. (42:316)
- ✓ Reconsiderations submitted after Oct. 6, 2011 shall be submitted on the Reconsideration Request Form DEP0063 (April 2011). (42:320)
- ✓ Eligible reimbursement for permanent closure costs associated with a SOTRA AFA approved prior to Oct. 6, 2011, must be made in accordance with the administrative regulations in effect at the time of the SOTRA AFA approval. (42:330)
- ✓ Optional soil removal outside the excavation zone is no longer reimbursable under SOTRA for those AFAs submitted and approved for removals after Oct. 6, 2011. (42:330)
- ✓ Changes were made to the SOTRA Claim Request Form DEP6068 (April 2011) and require the completion of the SOTRA Reimbursement Worksheet DEP0064 (April 2011) for those removals whose AFAs were approved after Oct. 6, 2011. (42:330)
- ✓ Laboratories that hold a valid certification from the UST Branch issued prior to Oct. 6, 2011, shall not be required to submit a new Application for Laboratory Certification DEP6074 (April 2011), but must comply with the certification requirements and provide an updated A2LA or NLAP certification if the one on file has expired. They must maintain their certification from either A2LA or NLAP or will not longer be considered a certified lab. (42:340)
- ✓ Certified contractors are no longer required. Instead, each company seeking to become an eligible company or partnership must now either have on staff, or contract with, a P.E. or P.G. licensed or registered in Kentucky. (42:316)



Administrative

- ✓ The revised UST Facility Registration Form DEP7112 (September 2011) replaces all other versions of the form. (42:020)
- ✓ Owner address changes may now be submitted on the Address Change Form for Owners of UST Systems DEP0060 (April 2011) instead of a registration form. It is important to note, however, that this form must be signed and notarized. (42:020)
- ✓ The UST Branch will continue to collect past due tank fees and tank owners/operators are still responsible for those fees. The fees are transferrable to new owners of tanks that have past due fees.



Underground Storage Tank Branch
200 Fair Oaks Lane
Frankfort, KY 40601



Important
program
information
is enclosed!

Inside this Issue - New Regulations Overview

Ready, set, go!

Submit technical documents electronically.



In an effort to make doing business with the Commonwealth easier and greener, the UST Branch is offering a new electronic submittal option for site assessment and remediation items. Facility classification guides, reports, deficiency responses, etc., that would normally go to the UST Closure, Additional Evaluation and Corrective Action Sections are now being accepted through this new online application.

For more details and to get started, go to the UST Branch website at <http://waste.ky.gov/ust> and just follow the electronic submittal links.

-Thank you-

to the following individuals and their companies for helping the UST Branch test this new application.

Bill Brab, Micah Group Energy & Environmental

Tim Crumbie, GeoScience Consultants, Inc.

Jenna Daniels, Hinkle-Meyer Environmental Services

Mark Sweet, Shield Environmental Associates, Inc.

Visit our website today at <http://waste.ky.gov/ust>.