



UST QUARTERLY



A Newsletter of the Kentucky Underground Storage Tank Program

Volume 7, Issue 2
2015

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New Initiative for Recurring Compliance Violations

By Brian Osterman, Environmental Scientist, Field Operations Branch

A new initiative for addressing habitually non-compliant UST facilities is being initiated through the combined efforts of the Field Operations Branch, the Underground Storage Tank Branch (USTB) and the Division of Enforcement. In an ongoing attempt to improve compliance with Underground Storage Tank (UST) regulations, the Field Operations Branch will be automatically referring habitually non-compliant UST facilities to the Division of Enforcement for possible fines and penalties.

Some owners and operators wait for a state compliance inspection to discover UST system issues, and the subsequent Notice of Violation, before they address common maintenance tasks or before they repair broken or failing system components. Once the issues specifically cited in the violation are addressed sufficiently to receive a passing compliance letter, all efforts to maintain the system cease until the next compliance inspection spurs action.

Common violations seen at habitually non-compliant UST facilities are:

- ◆ no records kept on site for statistical

inventory reconciliation (SIR) tank release detection

- ◆ no annual testing conducted for tank, piping, and equipment release detection
- ◆ no cathodic protection testing

The goal of this new initiative is to ensure UST facilities remain in compliance with UST regulations between inspections by state regulators, thus ending this cycle of failure, frustration and wasted tax dollars.

At worst, it is a matter of fairness, as owners and operators who spend their hard-earned dollars to properly maintain and repair their systems should not have to compete with those who habitually depend upon state inspectors to direct maintenance and repairs.

Habitually non-compliant UST facilities will be subject to fines, penalties and/or red tag delivery prohibition. It is important that monthly and annual testing be conducted on a routine basis, not only to prevent releases to the environment, but to also save the owner/operator and the citizens of the Commonwealth unnecessary expense.



This newsletter is published by the Underground Storage Tank Branch with state funds and is printed on recycled/recyclable paper.

For more information, comments or story suggestions, please contact the Underground Storage Tank Branch at 502-564-5981.

To report a release or suspected release, call the Environmental Response Branch.
1-800-928-2380

Is Your Corporation or LLC in Good Standing?

By Lola Lyle, Administrative Section Supervisor

All corporations and limited liability companies (LLCs) must be in good standing with the Kentucky Secretary of State's Office in order to be registered as owners or operators of underground storage tanks (USTs) in the Commonwealth of Kentucky. Go to <http://sos.ky.gov> and "Search Businesses" to verify that your company is in active status and good standing. If your corporation or LLC is a foreign (incorporated out-of-state) entity, you must obtain a Certificate of Authority to transact business in Kentucky from the Kentucky Secretary of State prior to registering your USTs in Kentucky. You must maintain good standing with the Secretary of State as long as the company is listed as the tank owner or operator.



UST Ownership During Probate

While most people and companies in the UST community are aware of the importance and obligation of keeping their UST ownership information correctly updated, there is a situation that many fail to consider. This is the sad and unfortunate situation that occurs when a tank owner dies. At that time, the deceased owner's estate enters the legal process of probate to identify and value all of the property involved in the estate, provide payment of any debts or taxes, and distribute the property. This includes the USTs and, possibly, the associated corrective action obligations.

It is widely known that a new owner of existing USTs, who either inherits them or buys them following probate, is required to submit to the UST Branch an updated registration and, if necessary, an updated PSTEAF application. However, a lesser known requirement that is often overlooked following the owner's death is the owner's estate must submit an updated registration, and PSTEAF application if applicable, during probate. The deceased owner's estate in probate is a separate legal entity and must meet all of the same requirements of a new owner. The goal of this requirement is to ensure there is a person responsible for compliance and corrective action through the probate process until a legally responsible new owner is identified.

As PSTEAF reimbursement eligibility is tied to owner/operator status, and an owner or operator signature is required for PSTEAF claim forms, it is essential that a valid legal entity remains on file as the registered tank owner, and PSTEAF applicant, until any corrective action is completed and No Further Action status is granted. Without a valid owner, the process is interrupted, possibly indefinitely, delaying site cleanup and potentially allowing the contamination to spread. This obviously has a negative effect on the property's value. Therefore, during the probate process, the executor/executrix of the estate will be required to sign documents, including reimbursement requests, submitted to the UST Branch.

All executors and heirs of deceased UST owners should ensure that ownership information remains updated throughout the probate process and that probate judges are made aware of ongoing UST corrective action. In addition, estates should not be closed without a new owner in place to continue to meet all registration, compliance and corrective action requirements.

Welcome to New AE Section Supervisor!



Todd Mullins recently joined the UST Branch as the new Additional Evaluation (AE) section supervisor. Todd began his career with the Kentucky Department for Environmental Protection (DEP) when he joined the Hazardous Waste Branch in 1999. From 1999 until 2015, Todd was part of a team of individuals providing environmental oversight of the U.S. Department of Energy's Paducah Gaseous Diffusion Plant. Most recently Todd served as supervisor of DEP's Paducah Gaseous Diffusion Plant Section in which he provided oversight of various forms of environmental remediation. These ranged from UST site closures to pump-and-treat remedial actions to electrical resistance heating actions designed to remove large quantities of volatile organic compounds from subsurface soils. He is a geologist by trade and holds a Bachelor of Science and Master of Science in geology from the University of Kentucky. Todd received his Kentucky Professional Geologist certification in 2001. He is looking forward to new challenges during his tenure with the UST Branch. He can be contacted at todd.mullins@ky.gov or 502-564-6716, ext. 4690.



Interesting UST Fact: Since 1986, the Underground Storage Tank Branch has issued 15,569 No Further Action letters for releases from regulated USTs.

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Water Intrusion Incidents Spike with Record Snowfalls and Rains

By Kevin Strohmeier, ERT Response Coordinator/State On-Scene Coordinator

Intrusion of water into an underground storage tank is an unnecessary but common incident across the entire state. Record snowfalls this winter, and rains and flooding this spring, dramatically increased the occurrence of water intrusion such that it has challenged the resources of UST owners and contractors alike. Preventing water intrusion is inexpensive. The costs of removing water from the UST system or the cost to repair customers' vehicles is expensive. The cost in damage to your reputation as a reliable supplier of fuel is, perhaps, unrecoverable.

Water in fuel has always been undesirable, of course. Since water does not dissolve in pure fuel and is denser, it settles in the bottom of the tank. With pure gasoline used in the past, as long as the water was below the pump intake, there were no serious problems. But with the near universal sale of ethanol blends, keeping water out of your tanks is critical. The chemical characteristics of the ethanol make it more soluble in water than in gasoline. If there is sufficient water in the tank, ethanol will move out of the fuel and into the water. Then your pumps will begin dispensing an ethanol and water blend with bad results to your customers.



Sample from UST showing water with gasoline floating on top of it

How much water is too much? There are no simple answers to that question. Phase separation, the term that means the ethanol has separated from the gasoline, depends on temperature, the amount of water, the chemistry of the gasoline and its additives, and turbulence of the tank contents from deliveries. Kentucky's UST regulations require the reporting and removal of water greater than 1 inch in depth. The Environmental Response Team will

implement delivery prohibition for water amounts greater than 2 inches. Most UST facilities also stop dispensing fuel when water gets to that depth.



Flooded spill bucket with water entering UST through loose fill riser cap

Most instances of water intrusion are preventable. In a typical scenario, shallow groundwater or pit water floods the UST system so that tank-top fittings or spill buckets are submerged. Water can then enter the tank through the following routes:

- ◆ a bad rubber grommet on the Automatic Tank Gauge (ATG) riser
- ◆ a loose cap on the fill riser
- ◆ a faulty drain valve in the spill bucket
- ◆ an intentionally disabled vapor recovery poppet, etc.

Damaged spill buckets should not let water into the tank if the riser cap is tight and the drain valve is operational. In fact, spill bucket drain valves should be replaced with plugs.

UST owners in flood prone areas should be even more diligent in maintenance of these items. Flooding events are frequently predicted well in advance, so special maintenance of the UST system, such as using cam-lock caps or threaded caps and inspection of all tank-top fittings, is possible to prevent water intrusion. It doesn't require a lot of imagination to see that a small amount of preventative maintenance can go a very long way in preventing water from entering the tank.

Vigilance in maintenance may still let you down on occasion, so pay constant attention to the water level and alarms on your ATG. Make sure to ask your contractor to check the water sensors during annual testing. If you use manual tank gauging and Statistical Inventory Reconciliation (SIR) for release detection, use water-finding paste at least monthly and more frequently during periods of heavy rain or snow.



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



UST Program
Information
Enclosed

2015 Annual Tank Fee Invoices—Two Ways to Pay

It is that time of year again! Annual tank fees are \$30 for each UST in active or temporary closure status and are assessed on July 1 of every year.

Two ways to pay:

Online

Paying online is free, secure and easy to use. To use this service, visit the UST Branch website at <http://waste.ky.gov/ust> and follow the links.

Mail

- ✓ Make checks payable to the Kentucky State Treasurer.
- ✓ Mail payments to:
Kentucky Dept. for Environmental Protection
UST Branch
200 Fair Oaks Lane, 2nd Floor
Frankfort, KY 40601



For questions regarding annual tank fees, contact the UST Branch Administrative Section at 502-564-5981