

MARCH 2011

UST Talk

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UST TALK

A Newsletter for Underground Storage Tank Owners / Operators

Published by Waste Management Division
 Underground Storage Tank (UST) Program

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Environmental Ticketing for UST Violations



This year there will be a new tool in the enforcement toolbox for the UST Program. The current authority for issuing tickets will be expanded to include UST as well as other program (Water Supply, Hazardous Waste, Air Pollution etc) violations.

Environmental Tickets are not new to the Agency of Natural Resources. Environmental enforcement officers have been issuing tickets for illegal burning and solid waste disposal for a number of years. The expansion of ticketing to other programs came about due as a result of efforts to speed up the enforcement process, and to deal with situations where there are violations but the traditional enforcement process does not seem appropriate.

Gary Kessler, Director of the Compliance and Enforcement Division, says “We can already take enforcement actions and issue fines for these violations, so we have not increased the number of violations that can be penalized. Ticketing is just another way of getting a violation resolved that will hopefully get people to come into compliance and stay in compliance”.

Environmental ticketing works in many ways like traffic tickets. There is a maximum and minimum amount for each violation; if someone receives a ticket and does not contest the violations, they can simply pay a “waiver” amount which is less than the maximum. If someone chooses to contest the violation, they must travel to White River Junction to the Judicial Bureau and appear before a Judge. The judge will hear the arguments from both sides and decide whether the violation is valid and assign a penalty.

One significant area where environmental tickets differ from traffic tickets is they will not be issued in the field during inspections. An inspector will bring their findings back to the office for review with supervisors or managers. The violations will be examined and the program will decide on an appropriate course of action, i.e. whether to issue a Notice of Alleged Violation, environmental ticket, make an enforcement referral, or take no further action. As a final check, all tickets will be signed by the Waste Management Division director. This process should ensure that tickets are not issued arbitrarily, and that major violations are not treated too leniently with a small penalty.

Environmental tickets are considered formal enforcement actions and will count toward a company’s environmental compliance record. Past enforcement actions drive up penalties in enforcement cases, so facility owners and operators should not take environmental tickets lightly. (See page 2 for List of Rules and Fines.)

“Ticketing is just another way of getting a violation resolved that will hopefully get people to come into compliance and stay in compliance”.

Public Hearings

UST and AST Rules

Hearings for UST Rules will run from 5:30 – 6:00 p.m.

Hearings for AST Rules will run from 6:00 – 7:00 p.m.

4/25/2011: Rutland Public Library, 10 Court St., Rutland

4/27/2011: Dorothy Alling Memorial Library, 21 Library Lane, Williston

5/2/2011: St. Johnsbury Town Board Room (Back of Fire Station), 1187 Main Street, St. Johnsbury

5/4/2011: Barre City Fire Department Training Room, 15 4th Street, Barre

See article on page 3

Environmental Ticketing for UST Violations
List of Rules and Fines (cont. from page 1)

Proposed Draft

CITATION	VIOLATION	MINI-MUM	FULL/MAXIMUM	Waiver- 1st Violation	Waiver - 2nd Violation	Waiver - 3rd Violation
<i>10 V.S.A. Chapter 59 - Underground Liquid Storage Tanks - Underground Storage Tank Rules (USTR)</i>						
10 V.S.A. § 1921 & 6603 - USTR § 8-103	Failure to investigate, report, or respond to a release of a regulated substance	750	\$3,000	900	1800	2700
10 V.S.A. § 1921 & 6603 - USTR § 8-103(a)	Failure to notify of unusual operation condition	750	\$3,000	900	1800	2700
10 V.S.A. § 1921 & 6603 - USTR § 8-302(c)	Failure to notify of change of ownership	150	\$1,000	300	750	900
10 V.S.A. § 1921 & 6603 - USTR § 8-304	Operation of a category one tank without a permit	150	\$1,000	300	750	900
10 V.S.A. § 1921 & 6603 - USTR § 8-304	Non-payment of permit fee	150	\$1,000	300	750	900
10 V.S.A. § 1921 & 6603 - USTR § 8-305(b)	Non-payment of assessment	150	\$1,000	300	750	900
10 V.S.A. § 1921 & 6603 - USTR § 8-405 (e)	Shear valves missing	750	\$3,000	900	1800	2700
10 V.S.A. § 1921 & 6603 - USTR § 8-405(e)	Shear valves not braced	750	\$3,000	900	1800	2700
10 V.S.A. § 1921 & 6603 - USTR § 8-406	Hole or crack in spill bucket	600	\$2,500	750	1500	2250
10 V.S.A. § 1921 & 6603 - USTR § 8-406(b)	No overflow device, or non-functioning device	750	\$3,000	900	1800	2700
10 V.S.A. § 1921 & 6603 - USTR § 8-502(e); 8-504(c)	No cathodic protection test records	600	\$2,500	750	1500	2250
10 V.S.A. § 1921 & 6603 - USTR § 8-502(e); 8-505(h)	No tank leak detection records	750	\$3,000	900	1800	2700
10 V.S.A. § 1921 & 6603 - USTR § 8-502(e); 8-507	No piping leak detection records	750	\$3,000	900	1800	2700
10 V.S.A. § 1921 & 6603 - USTR § 8-503	Incompatible overfill	750	\$3,000	900	1800	2700
10 V.S.A. § 1921 & 6603 - USTR § 8-503(a)	No Site diagram	150	\$1,000	300	750	900
10 V.S.A. § 1921 & 6603 - USTR § 8-503(c)	Spill buckets not empty	600	\$2,500	750	1500	2250
10 V.S.A. § 1921 & 6603 - USTR § 8-503	Failure to mark or label fill pipes	150	\$1,000	300	750	900
10 V.S.A. § 1921 & 6603 - USTR § 8-504(a), (b)	Failure to test cathodic protection systems	750	\$3,000	900	1800	2700
10 V.S.A. § 1921 & 6603 - USTR § 8-504(c), (d)	Failure to notify of cathodic protection test	750	\$3,000	900	1800	2700
10 V.S.A. § 1921 & 6603 - USTR § 8-505(a)	Failure to monitor for a release at least once per week	600	\$2,500	750	1500	2250
10 V.S.A. § 1921 & 6603 - USTR § 8-506(b)	No inventory records	750	\$3,000	900	1800	2700
10 V.S.A. § 1921 & 6603 - USTR § 8-506(c) (2)(C)	Failure to notify of a failed in-tank test	750	\$3,000	900	1800	2700
10 V.S.A. § 1921 & 6603 - USTR § 8-507(a) (2)	Failure to conduct annual testing of pressurized single-wall piping	600	\$2,500	750	1500	2250
10 V.S.A. § 1921 & 6603 - USTR § 8-507(b) (2)(D)	Failure to notify of a piping leak test	750	\$3,000	900	1800	2700
10 V.S.A. § 1921 & 6603 - USTR § 8-507(b) (5)(A)	Failure to conduct annual testing of automatic line leak detectors	500	\$2,000	600	1200	1600
11 V.S.A. § 1921 & 6603 - USTR § 8-507(b) (5)(D)	Failure to report results of a piping leak test	750	\$3,000	900	1800	2700
12 V.S.A. § 1921 & 6603 - USTR § 8-508(a)	Failure to notify of an anticipated replacement or repair	150	\$1,000	300	600	900
10 V.S.A. § 1921 & 6603 - USTR § 8-509	Late self-certification	75	\$500	150	300	450
10 V.S.A. § 1921 & 6603 - USTR § 8-602	Failure to notify of change of tank status (active to OOS and vice versa)	150	\$1,000	300	750	900
10 V.S.A. § 1921 & 6603 - USTR § 8-509	Failure to submit self-certification	150	\$1,000	300	750	900
10 V.S.A. § 6616	Release Prohibition	750	\$3,000	900	1800	2700
10 V.S.A. § 6617	Person Responsible for Release, Notice to Agency	750	\$3,000	900	1800	2700

Ready for an UST Inspection?

Due to a provision in the Energy Policy Act of 2005, Vermont, as with all states, is required to perform compliance inspections for each Category I UST facility once every 3 years. Vermont currently has 1000 Category One UST Facilities and the UST Program must complete roughly 350 UST facility inspections annually.



What does this mean to you? If your facility was last inspected in 2008, then most likely you are due for another inspection.

In addition to these federally mandated UST facility inspections, Vermont also conducts 100 random inspections to track and compare facility compliance with the 2010 self certification filed. So even if you just had an inspection last year, it is possible that your facility may still be inspected.

How do you determine whether or not your facility will be inspected this year? You can go to the State of Vermont UST Program website at <http://www.anr.state.vt.us/dec/wastediv/ust/home.htm>

Look in "What's New?" box in the top right hand corner of the page. You will be able to view the list of facilities to be inspected in 2011 by Facility ID, Facility Name, County, or Town.

How do I prepare my facility for an inspection? Make sure you are operating your systems right before you are due for a facility inspection. Here is one of the most frequent violations encountered:

-Not documenting weekly release detection. If you have an electronic system (e.g. Veedor Root) keep the print out slips in date order. You are required to have three years of documentation. If you are inspecting the interstitial space of the tank and piping sumps, manually record each date of inspection in a log book, note the condition found (**i.e., if wet what do you do?...See next page for answer**), and the initials of the person doing the inspection.

UST Rules Undergoing revisions, and new AST Rules in progress

The Vermont Underground Storage Tank Rules are undergoing another set of revisions, and the DEC is drafting a new set of rules for aboveground storage tanks. There are relatively few significant changes to the UST rules this time, but we still would like your input and suggestions on the proposed changes. Here is a quick summary of the proposed changes:

Tanks located at marinas will have to meet the standards established in the Petroleum Equipment Institute's publication RP 1000: Recommended Practices for the Installation of Marina Fueling Systems. Under the proposed rules, newly constructed fueling systems would have to meet the new standards immediately; already existing systems would have to meet the standards by the marina's opening date in the spring of 2013.

Monitoring wells and observation wells will have to be maintained with liquid-tight caps such that the well does not serve as a direct conduit for a surface spill to contaminate the groundwater. During our inspections, we frequently find monitoring wells with broken caps, providing a direct path for a surface spill to go straight into the groundwater.

Other minor clarifications in the wording of the rules, including new language that makes it clear that when a tank goes out of service, the tank owner is still required to provide financial responsibility (e.g. pay the annual assessment fee for the Petroleum Cleanup Fund).

The Department of Environmental Conservation is also developing a completely new set of rules regulating Aboveground Storage tanks. The new AST rules will contain standards for the installation, operation, and closure of ASTs. Many of the requirements of the AST rules parallel the existing UST rules.

We are seeking comments and feedback on both sets of rules.

Four public hearings have been scheduled, and the dates and times for the hearings are featured in a box on the front page of this newsletter.

The public comment period is open until May 13, 2010. Copies of both sets of rules can be viewed and downloaded from the Waste Management Division's web site: www.anr.state.vt.us/dec/wastediv/ust/draft_regs.htm

AST/UST Rules



2010 Underground Storage Tanks (UST) Self-Certifications

The filing of facility Self-Certifications went much more smoothly in 2010 than in 2009!! Many of you have remarked on how the new on-line application is a vast improvement over the previous application! We are very thankful for our IT staff who completely re-worked the web application!



The problem of 2009 proved to be a blessing, as it allowed us to trim down the application. We eliminated equipment questions that we already knew about (for example, we know what the tanks are made of, why make you tell us again?), and we also eliminated asking the same question for every tank. This resulted in reducing the number of screens to work through from 27 to seven!

80% of all facility owners completed the self-certification by the 12/31/10 deadline. Another 15% have completed their self-cert as of this date (the remainder will be hearing from us shortly!).

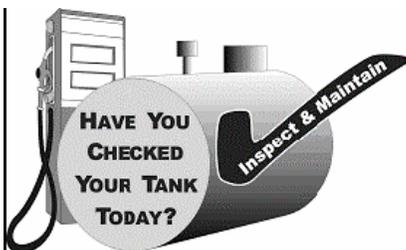


The Self-Certification requirement, combined with the stepped-up number of inspections has resulted in a compliance rate of approximately 84%. This is up significantly from the 2005 baseline of 68%, and has remained consistent over the three years of self-certification.

“We hope that owners continue to see the advantage of an annual facility inspection that must happen before filing the self-certification” said Marc Roy, UST Program Manager. “Inspecting equipment, checking sensors, and making sure leak detection activities are being conducted and records are kept is better to do on their (the owner’s) schedule rather than as a result of a State or EPA inspection. And finding and correcting an issue before it becomes a major problem is definitely to the owners advantage.”

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Answer from page 3: Contact the UST Program @ 1-802-241-3888

State of Vermont - Peter Shumlin, Governor

Agency of Natural Resources - Deb Markowitz, Secretary

Department of Environmental Conservation - David Mears, Commissioner