

## VT DEC Underground Storage Tank (UST) Program Statement on Enforcement Discretion

The following statement is issued in accordance with the Agency of Natural Resources COVID – 19 State of Emergency Enforcement and Compliance Guidance Document, dated March 31, 2020 (Guidance Document). The Guidance Document is available at [https://anr.vermont.gov/about\\_us/emergency-information](https://anr.vermont.gov/about_us/emergency-information). The exercise of enforcement discretion described in the following statement is contingent on affected projects meeting all applicable criteria of the Guidance Document.

We fully understand that the current circumstances have changed the way everyone conducts their business. We also understand that it will be very challenging for many tank owners to comply fully with all the requirements of the UST Rules, and we are prepared to use discretion in enforcing those rules.

With that said, we must point out that buried gasoline and diesel tanks store hazardous materials, and we must all remain committed to a high level of environmental protection. We will be as flexible as we can reasonably be, but we cannot allow tank permittees to ignore the monitoring requirement entirely. If a tank is not being used, it can be pumped empty (less than 1 inch of liquid remaining at the tank bottom). Once the tank is empty, there is no weekly requirement to monitor the interstitial space.

Of course, we all know that fuel sales are considered essential activities, so it is likely that most regulated tanks will remain in service. Many tanks are equipped with electronic interstitial monitors, and those can be connected to a computer, and the status of dozens of tanks can be shown on one computer screen. As long as someone is checking regularly to make sure no sensor is in alarm, and it is noted somewhere that the sensors are all normal, that fulfills our requirements. Even if the electronic monitors are not connected to a central computer, it should not be overly burdensome for someone to check weekly to ensure that the monitor is not indicating an alarm condition.

The Agency is hereby exercising enforcement discretion pursuant to the Guidance Document for any instance of non-compliance relating to monitoring of USTs provided:

- a. The noncompliance does not present a significant threat to human health or the environment;
- b. The permittee takes all reasonable steps to prevent and/or mitigate the noncompliance;
- c. The permittee notifies the Agency of the noncompliance as soon as possible; and
- d. The permittee comes into compliance as soon as possible or enters into a schedule to return to compliance with the Agency.

Any report concerning an incident of non-compliance should be sent to [Ted.unkles@vermont.gov](mailto:Ted.unkles@vermont.gov) or may be submitted via phone at 802-522-0488 or to [Marc.roy@vermont.gov](mailto:Marc.roy@vermont.gov), 802-522-0275. Any report submitted shall include the permit number and reference to the permit condition not met. This statement shall expire at the end of the Governor's declaration of a state of emergency related to the outbreak of COVID-19.