

# UST TALK

A Newsletter for Underground Storage Tank Owners/Operators  
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## Proposed Changes to the Vermont Underground Storage Tank Regulations – September 25, 2006



The Vermont UST Program is re-writing the UST Regulations, for the following reasons:

- Vermont's current UST regulations date from 1991, and the industry has changed significantly since then. The rules need to be updated to reflect the current state of the industry.
- The recent federal Energy Act contains mandatory changes to all UST programs that receive federal funds. The revisions to the rules incorporate many required changes. EPA has not yet issued guidance to states on several changes, and those changes will be included in amendments to the UST Regulations, which we expect to include in a 2008 revision.
- The UST Program is participating in an Environmental Results Program (ERP) along with the vapor recovery program of the APCD, the underground injection program of the WWMD, and the RCRA (hazardous waste) program of the WMD. The ERP will require that UST permittees submit a self-certification inspection report. The requirement that tank owners self-certify their compliance status is not included in the current UST regulations, so the first round of ERP self certifications cannot occur until the new rules are adopted.

Proposed changes mandated by the new federal Energy Act are as follows:

For new systems:

- Construction standards are mostly unchanged, except that single-wall intrinsically safe suction systems will no longer be allowed. However, EPA is now re-thinking

whether intrinsically safe suction systems should be exempted from the secondary containment requirement, so if EPA changes their stance, we may change the wording in our regulations. Our intent is to allow single-wall safe suction systems if EPA concludes they are allowable under the new federal law.

For retrofit work on existing systems:

- Any subsurface work at an island or replacement of a dispenser that involves any excavation or other work beneath the shear valve will trigger the requirement for under-dispenser containment and monitoring (i.e. installation of a dispenser sump with an electronic probe).

Red Tag Authority:

- Under current state statute, it is illegal to deliver product to any category one tank unless that tank has been visibly designated as meeting the requirements of the 1998 upgrade standards. (Cont. on page 2)

**Reminder!**

**NOAV Reminder!** For those of you, who have received Notices of Alleged Violation from the UST program, remember two things:

1. **Get the work done!**
2. **Get a WRITTEN RESPONSE to us!**

We have only been writing NOAVs when there are significant problems with your UST system; something that is either causing a release, or that could lead to a release. If you do not take the requested actions, you run the risk of both having a release AND having your case referred for enforcement. So get it done!

## Proposed Changes to the Vermont Underground Storage Tank Regulations – September 25, 2006 (Continued)

(We designate tanks as being in compliance by issuing a green sticker.) We propose a **change in statute that would make it legal to deliver product to any tank except one that has been designated as ineligible to receive a delivery.**

- If the Legislature makes this change, we anticipate attaching red tags to fill pipes of tanks that do not meet the standards. Because this will require a change in state statute, we do not intend to include the new language in the new set of regulations, but we will include new language in a future rule revision.

### Operator Training:

- The federal energy act requires that we implement an operator training program by August 8, 2009. The new regulations will not address this issue. However, we anticipate that the operator training requirement will probably dovetail nicely with the Environmental Results Program.

### Proposed changes not mandated by the Energy Act, but considered necessary, are as follows:

#### Defining new categories of USTs:

- Category One tanks: already defined; that definition will not change.
- Category Two tanks: Tanks over 1100 gallons holding motor fuel at farms and residences.
- Category Three tanks: Tanks over 1100 gallons holding heating oil for on-premises space heating;
- Category Four tanks: tanks under 1100 gallons used for on-premises heating, or motor fuel tanks under 1100 gallons, used exclusively for private, non-commercial use.

#### New Provision to protect Groundwaters in the State

- The new rules would eliminate the provision allowing the program to waive the secondary containment requirements in areas designated as class IV groundwater. (In the 15 years our current rules have been in effect, no one has ever requested such a waiver!)

#### New Provisions to Protect Drinking Water Supplies -- New category one and category two tanks will not be allowed in:

- Any area designated as Class I or Class II groundwater.
- Zones 1 and 2 of public water supply Source Protection Areas (SPAs). However, we will allow new facilities in Zone 2 of a SPA if the applicant can demonstrate that constructing a UST system in a specific location within Zone 2 of the SPA would not pose an unreasonable risk to human health and the environment.
- This proposed prohibition will not affect existing facilities. Existing facilities in public water supply SPAs will be allowed to upgrade and replace their UST systems.

#### Changes in the Permitting Process:

- Include a new provision allowing the program to hold public hearings or take written comments for permit applications or permit renewals. UST Permits will be separated into two different permits: 1) a permit to construct an UST system; and 2) a permit to operate that system.

- The permit to construct will probably include authorization to operate the system for 30 days, which will allow us time to process the completed checklists and issue the permit to operate.
- Permits will not be issued or renewed if a facility is not in compliance with the Vapor Recovery requirements contained in Vermont's Air Quality Rules.

#### Record-Keeping requirements:

- New requirement that all required records be maintained within the state.
- Currently, many records are required to be maintained "at the facility."

#### Scheduling Construction Activities:

- Change advance notification for construction and/or tank pulls to 5 business days. Currently, the requirement is 14 days advance notice for tank pulls; 10 days notice for installation.

#### Changes to minimum construction standards:

- New requirement for all new construction and substantial modifications: 15-gallon spill buckets instead of the typical 5-gallon size. Exceptions will be allowed on small tanks where the spacing of the bung holes makes a 15-gallon bucket impractical.
- Float vent valves will not be allowed for new construction, or for tank systems that are substantially altered. Existing float vent valves will have to be removed and replaced by no later than October 31, 2010.
- Any flexible plastic piping installed after the rules become effective will have to meet the new UL 971-2005 standard.

#### Operation & Maintenance:

- New requirement that tank-top fittings and fixtures be both liquid-tight, and **vapor-proof**.
- Cathodic monitoring: new requirement that a minimum of three test readings be taken over the center line of the tank: one at each end, and one in the middle of the tank.

#### Changes to the Release Detection Requirements:

- Groundwater monitoring and vapor monitoring would be allowed as methods of release detection for only **one year** after the rules take effect. After that, any facility using one of these methods must use another method of release detection.

#### Mandatory Testing of Flexible Piping:

- The new rules would require that existing flexible thermoplastic piping that does not meet the standards of UL 971-2005 must be tested when the piping is 10 years old, again when the piping is 15 years old, and every other year thereafter.

#### Environmental Results Program (ERP):

- The new rules would add a provision that would allow the Agency to make ERP inspections and self-certifications mandatory. Schedule will not be set in the rule, so there will be flexibility.

Please send comments to: Ted Unkles, Department of Environmental Conservation, UST Program, 103 South Main Street, West Bldg., Waterbury, VT 05671-0404, or e-mail to: [ted.unkles@state.vt.us](mailto:ted.unkles@state.vt.us) ■

## *What About Those Temporarily Out-of-Service Tanks?*

*Are We Creating a New Generation of Forgotten Tanks?*

*Not likely!*



The Vermont UST Program is noticing a growing number of tanks that meet post-1998 construction standards being placed into temporarily out of service (TOS) status for one reason or another. There are a number of things you should be aware of if you are planning on taking your tank TOS.

A tank which is temporarily taken out of service is subject to all requirements of the rules. If your tank is TOS for more than 90 days, you must do the following:

- Empty to the lowest drawoff point
- Vent line must be left open and functioning
- All other lines, gauge openings, manways, pumps and ancillary equipment must be capped or otherwise secured to prevent unauthorized use or tampering.
- Maintain the weekly leak detection monitoring
- Maintain cathodic protection. If the cathodic protection includes an impressed current system this means the power cannot be shut off.
- Notify the UST Program the tank is out of service

If the tank is completely emptied, you no longer have to conduct the leak detection monitoring. A tank is considered empty when all materials have been emptied so that no more than 1 inch of residue, or 0.3 percent by weight of the total capacity of the tank, remains in the tank.

Vermont UST Regulations allow double wall inactive underground tanks to remain in the ground for more than a year, as long as the tanks meet the double wall requirement. The question now arises on whether we are in effect creating a new generation of out-of-service tanks. It is not difficult to see how this could happen. Take this common scenario—A small country store closes and the property is on the market for several years; or, the owner of a gas station dies, and settling the estate takes a life of its own. Finally, when the property eventually changes hands and reopens for business, the new owner decides not to sell gasoline, and the TOS tanks remain in the ground.

In the past, we have gone through the nightmare of discovering tanks that were abandoned prior to the inception of regulatory/permit programs. One advantage to today's TOS tanks is that they have been taken out of service legally and we in the UST program know where they are located, thanks to the tank registration and permitting requirements.

Finally, the federal and state rules require financial responsibility until a tank is properly closed. This means the annual tank assessment is payable if the tank owner wants the tank to retain coverage by the Vermont Petroleum Cleanup Fund.

The UST Program has realized that most post-1998 TOS tanks are not coming back into service and need to be permanently closed. Our proposed revisions to the UST Regulations will require a TOS to be permanently closed after five years with an environmental site assessment performed.

We currently allow upgraded TOS tanks that have been out of service for more than a year to be brought back into service after the tank system has been inspected and certified as being in compliance with the rules. If a tank has been TOS for more than five years—maintained or not—chances are that it won't ever be going back into service. And the environment has no need to have it in the ground.

Vermont is still dealing with abandoned tanks that were never notified to the state. We use the Sanborn Fire Insurance maps as supporting historical source for validating the suspected location of old buried tanks discovered during property transfers, redevelopment of property and installation of sewer or water lines. To avoid another generation of abandoned tanks, tracking TOS tanks until their permanent closure is a must. And there is no excuse, because by the notification and permitting of tanks since 1987, we know where they are.



**Good Luck and Best Wishes Andy!**

**Movin' On** – Andy Shively has left the Underground Storage Tank (UST) program to take a hazardous waste position with Vermont Agency of Transportation. Andy will be overseeing tank systems and hazardous waste management for VTrans. We in the UST program sorely miss Andy's energy and expertise! Andy has been our resident UST expert for years, and has helped shape the UST program and policies both in VT and at the national level.



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