

THINK



Published by the Delaware Department of Natural Resources and Environmental Control Tank Management Branch as a service to the regulated community

Fall 2007

Number 54

A

N

K

Public Hearing held for new UST Regulations

Jill Hall

The Tank Management Branch held a public hearing on October 30, 2007 to receive comments on the proposed Delaware *Regulations Governing Underground Storage Tank Systems*. The hearing was attended by over thirty members of the regulated community, including tank owners and operators, contractors and consultants. The TMB will make some minor changes to the proposed Regulations as a result of suggestions from the regulated community. At this time, the TMB predicts that the proposed Regulations will be published in the Delaware Register on January 1, 2008 and will become effective January 10, 2008. An announcement of the effective date of the Regulations will be posted on the TMB website, <http://www.dnrec.state.de.us/dnrec2000/Divisions/AWM/ust>. The Regulations will be available for downloading at this site or hard copies will be available for purchase by contacting the TMB. A new Compliance Assistance Manual (CAM) for tank owners and operators will be published in early 2008.

Some of the significant changes that will take effect with the new Regulations include:

- All new installations, replacements, upgrades and retrofits must be secondarily contained including double wall tanks and piping with interstitial monitoring, and containment sumps at tank tops and under dispensers;
- Acceptable release detection methods for new installations include continuous interstitial monitoring and automatic tank gauge systems. Only Heating Fuel, Used Oil and Emergency Generator USTs may utilize tank tightness testing;

- New spill containment buckets must have a 15 gallon capacity;
- Impressed current cathodic protection systems cannot be installed to make repairs or upgrades to failing cathodic protection systems;
- All cathodic protection systems must be tested once a year by a certified individual;
- All repairs to cathodic protection systems must be approved in advance by the TMB;
- Emergency Generator USTs must institute a form of release detection by January 1, 2009;
- Internal Lining may not be added to a tank to meet corrosion protection requirements;
- Certified Contractors must show proof of Contractor's Pollution Liability insurance in the amount of \$250,000;
- Any person who observes contamination at an UST site must report such contamination to the Department;
- Any UST storing an ethanol blend must be checked for water once a day;
- Requirements for remedial action at contaminated sites have changed to expedite cleanup.

Please note that this list is not comprehensive.

If you or your organization would like more information on the new Regulations, please call the TMB. You may book a training session for your organization on the new regulations after the first of the year.

ASTs: TMB requirements vs. Water Resources requirements

Erich Schuller

Until the TMB developed regulations specifically for aboveground storage tanks (ASTs), the Division of Water Resources (DWR) required a bulk storage permit for any facility that stored 40,000 gallons or more aggregate volume of hazardous materials, petroleum products or liquid waste in ASTs. After the Jeffrey Davis Aboveground Storage Tank Act was passed, the Department became aware of the fact that some aboveground storage tanks were subject to both the DWR bulk storage permit requirement and the Regulations Governing Aboveground Storage Tanks (AST Regulations). To rectify this, the DWR regulations were amended to omit the requirement for a bulk storage permit for any tank that meets the definition of an AST in the AST Regulations. **In other words, if the AST is required to be registered according to the AST Regulations, it does not require a bulk storage permit.**

When do you need a DWR Bulk Storage Permit? If a facility stores 40,000 or more gallons of a substance that does not meet the definition of Regulated Substance* in the AST Regulations, but does store a hazardous material, petroleum product or liquid waste, then the facility is required to have a bulk storage permit issued by the DWR.

If your facility had a bulk storage permit issued per the DWR and is now required to register per the AST Regulations, please let us know so we can maintain these records in our TMB files and take action to formally close these permits.

Example: A facility has two 20,000 gallon ASTs that store liquid manure. Liquid manure is not a Regulated Substance according to the definition in the AST regulations. The facility has 40,000 aggregate storage of a liquid waste per the DWR regulations. The facility must have a bulk storage permit issued by the DWR.

Example: A facility has two 20,000 gallon ASTs that store gasoline. Gasoline is a Regulated Substance per the definition in the AST regulations. The facility must register the AST with the TMB.

When do you need to register with the TMB? Any facility with an AST that meets the following definitions must register the AST with the TMB.

Aboveground Storage Tank:

A single aboveground containment vessel having a capacity of greater than 250 gallons and currently or previously having contained *Regulated Substances** on or after January 1, 1992. The term includes all ancillary aboveground pipes and Dispensing Systems up to the first point of isolation and all ancillary underground pipes and Dispensing Systems. Within this definition, the word "vessel" includes any container

that can be partially visually inspected, from the exterior, in an underground area. (The following is condensed – the exemptions in the Regs are longer) The term AST does not include any of the following:

- septic tank;
- pipeline facility
- surface impoundment, pit, pond, or lagoon;
- liquid trap or associated gathering lines directly related to oil or gas production or gathering operations;
- Flow Through Process Tank;
- transformer, regulators and breakers used for the sole purpose of electrical power distribution and transmission;
- containment vessels operated as part of a publicly owned treatment works as defined pursuant to Title 7 Del. C., Chapter 60, *Environmental Controls*, §6002 and regulated pursuant to Title 7 Del. C., Chapter 60, *Environmental Controls*, §6003 or used for the storage and conveyance of wastewater to a treatment plant regulated in accordance with the requirements of the *Clean Water Act*.

* The AST Regulations define a **Regulated Substance** as a liquid or gas that:

- contains one percent or more of a hazardous substance as defined in the *Comprehensive Environmental Response, Compensation and Liability Act of 1980* [42U.S.C. §9601(14)] and any amendments thereto; or
- contains 0.1 percent or more of a carcinogen as defined by EPA in the *Integrated Risk Information System* (IRIS) April 2002 and as updated; or
- is a petroleum product, including crude oil or any fraction thereof, which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute); or
- is a substance determined by the Secretary through regulation to present a risk to public health or welfare or the environment if released into the environment.

Are there any requirements other than registration in the AST regulations? Yes. ASTs have specific technical requirements for installation, operation and maintenance depending upon the substance stored and the storage capacity of the AST. A copy of the AST regulations can be downloaded at <http://www.dnrec.state.de.us/dnrec2000/Divisions/AWM/ast/>.

If you have any questions regarding the AST Regulations, contact the TMB at 302-395-2500. If you have any questions regarding the Water Pollution Regulations, contact the DWR at 302-739-9950.

Project Reviews: Getting your tank project reviewed quickly the first time!

Peter Rollo

Delaware's Regulations Governing Underground Storage Tank Systems (the UST Regulations) require that the TMB review different types of UST-related projects prior to their commencement, and at specific points during the project. These reviews help to ensure that the UST systems that are installed and repaired are in compliance with the UST Regulations. This is a case where the old adage, "An ounce of prevention is worth a pound of cure" applies. It is better to catch mistakes and inconsistencies before an expensive system is installed, in order to prevent leaks and incurring the cost of an expensive cleanup.

Delays in getting DNREC's approval on a project can be frustrating and costly. These delays can be reduced by ensuring that your submittal is complete at the time of submission, and that the UST Regulations and TMB procedures are closely followed. The following is a list of common errors or pitfalls that lead to delays in getting project approval.

Scope of work does not meet regulatory requirements: Please read the UST Regulations carefully and, if in doubt, please call the TMB to discuss the planned work. If the plan submitted is not in compliance with what is required by the UST Regulations, an amended plan will be required and the review will not begin until a plan is deemed complete.

Incomplete or deficient paperwork: In addition to notifying the TMB of pending activities, UST Registration and Notification forms provide us with a way to proof our records, and resolve any discrepancies. Therefore, pages 2 and 3 must be completed for *all* USTs at the facility anytime a UST Registration and Notification form is submitted, not just the UST on which work will be done.

Missing supporting information: This may include manufacturers specifications or cut sheets for equipment, site and system drawings, and a detailed list of equipment being installed. A thorough review cannot be done without this information.

Missing or invalid signatures: The tank owner must sign the UST Registration and Notification form. The contractor or consultant may not sign as "owner's agent." If a circumstance exists where a third party must sign in the owner's stead, a power of attorney must be established by the owner in order for the TMB to accept that third party's signature.

Missing fees: Vapor recovery permit applications must be accompanied by a permit fee of \$120 per per-

mit. Applications cannot be processed without the fee. A site requiring both Stage I and Stage II construction permits would require an application fee of \$240. Permit applications for new sites that have never had gasoline USTs installed are required to place a legal ad in the newspaper and therefore require an additional public notice fee of \$200, paid with a separate check. The vapor recovery fees *cannot* be combined with the public notice fee. Checks should be made payable to the State of Delaware.

Contractor hired is not certified for the activity to be performed: The TMB certifies contractors for installation, retrofit, closure (removal and abandonment in place), and internal lining. For example, a contractor certified for installation only may not perform retrofit or closure activities. No activities will be approved if the contractor listed on the UST Registration and Notification form is not certified for the planned activities.

Not allowing enough time for review and approval: A new installation project takes up to 30 days to review and approve. Stage I and Stage II vapor recovery system installations or changes take up to 60 days to approve. In either case, a review will not begin until the submittal is complete. For a new installation with vapor recovery, i.e., a gas station, the owner and contractor should allow 90 days in the schedule for review and approval by the TMB. We've heard anecdotally that some local jurisdictions will not approve projects until the TMB has issued its approval. Please factor these delays into your schedule as well.

Not scheduling required inspections: New installations require three inspections during the project: at the time the tank(s) is/are set, when the piping is run and ready to be backfilled, and at the completion of the project prior to system commission. If an inspection is not scheduled as required and work proceeds past the point where inspection should have occurred, the TMB may require the system to be excavated in order to verify proper installation.

Not ready for required inspections: If the contractor is not ready for the inspection, the inspector may have no choice but to reschedule the inspection. The inspector expects to see the system exactly as it will be backfilled. For example, flexible piping should be laid out, properly spaced, sloped and supported, just as it would be right before the first scoop of backfill is poured. "Fixing it as we backfill" is not acceptable. At the final inspection, the paving should be in

Continued p. 4 – Reviews

THINK TANK

Becky Keyser, Editor
Gary Charles, Publisher
Tripp Fischer, Technical Editor

Contributing Staff

Jill Hall
Erich Schuller
Peter Rollo
Patrick Boettcher

DNREC
Tank Management Branch
391 Lukens Drive
New Castle, DE 19720

Tel: (302) 395-2500
Fax: (302) 395-2555
DNREC_AWM_Tanks@State.de.us

Alex Rittberg—Branch Manager

Program Managers:
David Brixen—Compliance
Jenn Roushey—Corrective Action

James Harlan—Director, Boiler Safety
(302) 744-2735



Announcements

Prince McNeil— was hired in July 2007 as a Senior Environmental Compliance Specialist. Prince was formerly employed by Cardinal Health as a Quality Assurance Supervisor, and is a veteran of the U.S. Marine Corps.

Aaron Siegel— was hired in September 2007 as a Hydrologist. Aaron graduated from the University of Delaware with a bachelor's degree in geology.

Elizabeth Wolff— was hired in September 2007 as a Hydrologist. Liz earned her B.S. in environmental science and was formerly employed at the Delaware Geological Survey.

- Effective September 1, 2007, the TMB will no longer accept cash for Freedom of Information Act fees and hard copies of regulations and other guidance documents. We will continue to accept checks or money orders.
- Contractors and consultants: Please remind your analytical laboratories to provide temperature data for samples at the time of receipt. This may be noted on the chain of custody, or somewhere in the analytical results. Thank you in advance for your cooperation.

Reviews – Cont. from p. 3

place and the entire system be precision tested, the leak detection equipment should be programmed, and everything should be labeled and painted. If there's any doubt about what needs to be done for a particular inspection, you may always call the inspector ahead of time to verify.

If you have any questions concerning the UST Regulations and TMB submittal requirements, please call the facility's compliance officer or Peter Rollo to discuss these concerns in advance.

<http://www.dnrec.state.de.us/dnrec2000/Divisions/AWM/ust/>

DNREC/TMB
391 Lukens Drive
New Castle, DE 19720

Doc. #40-09-03/07/11/01

