



Tank Bulletin

Information on Underground Storage Tank Issues

Public Comment

June 1990

Licensing Program for Tank Service Providers and Supervisors

In 1989, the Washington Legislature passed House Bill 1086, later codified as Chapter 90.76 RCW, creating a comprehensive, statewide program for the regulation of certain underground storage tanks. As part of this program Ecology will license persons and firms engaged in performing certain tank activities.

The State of Oregon's Department of Environmental Quality has already implemented a successful licensing program. Ecology plans to follow Oregon's model, with minor alterations. This will also allow the two states to achieve reciprocity between their licensing programs.

Washington State Department of Ecology will establish the licensing program in July 1990. Firms performing tank installation, retrofitting, decommissioning, tank tightness testing or cathodic protection installation and/or testing will be required to register with Ecology by August 1, 1990. Supervisors of these activities will be tested in the fall, and licenses will be required by January 1, 1991.

After January 1, 1991 each job site must have a licensed supervisor present when any of these activities are being performed on a regulated tank.

Licensed supervisors are required to pass an examination for each license. Exam schedules and locations will be available after July 1, 1990. Exams will not be required for firms to be licensed.

After January 1, 1991 tank owners will be required to employ only licensed firms and licensed supervisors for any of the regulated activities. Ecology will be able to indicate who meets these requirements.

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For more information or application forms for the licensing program contact Guy Barrett, UST Section at (206) 438-7881.

Financial Responsibility Requirements Delayed for Certain Tank Owners

Two groups of tank owners have received a one year reprieve from the financial responsibility requirement. On March 15 of this year EPA announced an extension of the compliance dates for these groups. Marketers with 13-99 tanks, who were scheduled for compliance in April of this year, have until April 26, 1991 to find a method of financial assurance. Marketers with 1-12 tanks, local governments, and non-marketers with a net worth of less than \$20 million originally had until October 26, 1990 to comply. The members of this group now have until October 26, 1991.

EPA provided this extension because it recognized that insurance generally continues to be unavailable for these groups. In Washington, a solution may soon exist for many tank owners, through the state insurance program described in the following article. If insurance is available to the above owners through this program and they do not obtain it (or some other means of financial assurance), their permits will be revoked once the 1991 compliance dates have passed. Ecology will be enforcing this requirement.

State UST Insurance Program

Washington State Pollution Liability Insurance Agency Director Jim Sims has announced that although EPA has granted a delay in financial responsibility requirements for certain UST owners, the Agency is going forward with its reinsurance program. Proposals are due June 22 from insurance companies who wish to work with the Agency in providing pollution liability insurance to UST owners and operators. Sims expects that contracts will be signed in late July with two or three insurance companies, and policies available in August 1990. Insurance under these policies should provide a significant savings over today's rates because of the reinsurance (financial guarantee) provided by the Agency.

The Agency is also developing a program under which owners and operators may be reimbursed for part of the cost of determining whether an UST meets the underwriting

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standards of the insurance company. In other words, if a volumetric tightness test were required by the insurance company to determine eligibility for insurance, the Agency could reimburse the owner or operator for the cost of the testing. Full details of this program will be announced in six to eight weeks by the Agency.

Should you have any questions regarding pollution liability insurance, call the Agency at (206) 586-5997.

UST Basic Education Course

The Environmental Protection Agency (EPA) is hiring a contractor to present an UST Basic Education Course to owners/operators, and to the general public with an interest in USTs, in Washington State this summer. Courses will be presented primarily in rural areas of the state. If funding allows, the course presentations will be expanded to urban areas as well.

The purpose of the course is to present information to the regulated community in a manner that will make the regulatory requirements understandable and to show some of the ways to implement these requirements in the field. There will also be an opportunity to have questions answered and find out where further information or assistance can be found. At the conclusion of the course the participant will have a basic understanding of the regulatory requirements and how to implement them in their businesses, as well as things to watch out for. This will provide the owner/operator with a basis from which they can then make sound business decisions based on fact, instead of some of the unfounded rumors that have circulated in some areas and have caused some people to go out of business needlessly.

Utilizing a video format, the three hour course will cover: EPA regulations; state UST and insurance programs; tank installation; leak detection and/or tank management; tank closure and safety. Owners/operators will be sent notices of the class schedule in areas where courses are to be given, probably in July.

Tank Permits and Federal Compliance Dates

In January 1991 all tank owners will be asked to provide Ecology with documentation of their compliance with the federal rules (if applicable). Tank permits will be issued by July 1, 1991 to those who can document compliance with the rules applicable to their tanks. After this date, regulated tanks cannot legally receive product without a permit.

Tanks installed before 1965, or for which the date of installation was unknown, were required to begin using one of several options for release detection by December 22, 1989.

Tanks installed between 1965 and 1969 are required to have release detection by December 22 of this year. The acceptable methods are described in the federal publication *Musts for USTs*, which was sent to all registered owners in the spring of 1989. If you do not have this publication, or if you need additional information, please call 1-800-826-7716 (a Spanish language version of "Musts" is now available.) If the above-mentioned tanks use suction type piping, the piping is required to employ release detection within the same time frame as the tank (with certain exceptions specified in *Musts for USTs*). All pressurized piping, regardless of age, must have release detection by December 22 of this year. Tank owners and operators should act soon to ensure that they will meet the compliance date.

In addition to release detection (and standards for new tanks which have been in effect since December 22, 1988) certain tank owners are presently subject to federal financial responsibility requirements. If you are a petroleum marketer with 100 tanks or more, or a non-marketer with a net worth of \$20 million or more, you are presently required to have financial assurance. You must be able to demonstrate compliance with this requirement or you will not receive a permit.

The federal rules require that records be kept of compliance activities; these records will be the documentation tank owners will be expected to provide. Ecology will be working closely with product distributors to ensure that they are informed regarding which tanks are in compliance.

An additional important requirement is tank notification. All new tanks must presently be reported to Ecology within 30 days of installation (we anticipate this will be changed to 60 days prior to installation under the new state rules) and any unreported existing tanks should be reported immediately. Please call the above toll-free number to obtain the proper notification form.

UST Billing Schedule

An Ecology *FOCUS Sheet* dated September 1989 said the next billing for the tank fee would occur in April 1990. For various reasons this did not take place. The billing for FY 1991 is now scheduled for November 1990 (we also anticipate that next year's billing will take place in November). Any tank regulated under the UST program which is not permanently closed by August 31, 1990 is subject to the fee. This provides an extra two months this year to accomplish closure. Next year tanks must be closed by June 30 - the end of the fiscal year - to avoid being liable for the fee. If you own or operate an UST system and you intend to close it by the deadline, you should make arrangements with a contractor *very soon*.

State Underground Storage Tank Regulations

Ecology is directed by Chapter 90.76 RCW to prepare state UST regulations. These regulations will include all of the federal requirements, as well as a number of additional features such as the licensing and permit program described elsewhere in this bulletin.

The agency has been working with a 24 member advisory committee since late last year to prepare these rules. The law requires Ecology's rules to be adopted by July 1 of this year, but the agency is behind schedule. We now anticipate filing the *proposed* rules in July 1990, with public hearings

(and written comments) in August and September. Under this schedule the final rules will be filed in November and will become effective in December 1990. Corrective action rules are being prepared separately, as described in the article below.

Once Ecology has established its UST program, the agency will seek approval of the program from EPA, so Ecology's rules will take precedence in the state. Local governments can seek delegation of the state program and establish stricter requirements to protect environmentally sensitive areas.

Leaking Underground Storage Tanks

Rule Development

Ecology is currently developing rules for leaking underground storage tank (LUST) sites. As most UST owners and operators know, they are now subject to the corrective action requirements of the federal rules, if a release is confirmed at the site. These rules require owners and operators to report confirmed releases to Ecology, investigate and clean up the site, and send written reports on corrective actions to Ecology within a specified time.

Owners and operators of LUST sites should be aware that they must also comply with the state Model Toxics Control Act, Chapter 70.105D RCW, and the regulations which implement the Act, Chapter 173-340 WAC. Ecology's Hazardous Waste Investigations and Cleanup Program is developing a new section, WAC 173-340-900, to address UST corrective actions. This section will outline how owners and operators can meet both the state and the federal requirements at the same time. The UST Advisory Committee is reviewing this LUST section in addition to the UST regulations.

The Hazardous Waste Investigations and Cleanup Program is also developing regulations for cleanup standards, which will be added to Chapter 173-340 WAC later this year, at the same time the LUST section is added.

Financial Help Available for Cleanups!

Ecology may be able to assist owners and operators in investigating and cleaning up LUST sites. The Model Toxics Control Act provides Ecology with both the authority to clean up petroleum releases and the ability to fund investigations and cleanups under certain conditions. Owners and operators must request financial help from Ecology in advance of the work - once the work has been performed, it is too late to receive assistance.

Generally, if the cost of an investigation or cleanup may put a tank owner or operator out of business or into bankruptcy, the site may be eligible for public funding. Normally, this will involve a consent decree, filed in court by the Office of the Attorney General, either before Ecology begins work at the site, or during cost recovery procedures after Ecology has cleaned up the site. Again, the state *cannot* pay contractors hired directly by the owner or operator, or reimburse owners or operators for work previously done.

If you own or operate a LUST site, and you need public funding in order to investigate or clean up a release at the site, call the Ecology office for the region the site is located in, or call Ecology's LUST Program in Olympia at (206) 438-3000. Ecology will send you a form which must be completed and submitted along with income tax forms for the past three years.

Ecology will evaluate and prioritize requests according to the threat to human health and the environment and the solvency of the LUST owner and operator. Because of the number of requests and resource limitations, Ecology will not be able to provide public funds for all eligible sites.

Technical Information

The Hazardous Waste Investigations and Cleanup Program is developing technical guidance which will clarify state requirements for assessing and cleaning up releases from UST systems. Regional Office staff who are supported by the federal LUST Trust Fund can provide additional technical assistance on what is required at a site.

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Tank Bulletin is produced by the Underground Storage Tank Section of the Department of Ecology to provide information to registered underground storage tank owners and operators and others who need to be kept current on UST issues. New editions will be published as the need arises.

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