



State of Oregon
Department of
Environmental
Quality

UST Service Provider

*E-Mail
Bulletin*

UST Program Update

March 2007

www.deq.state.or.us/lq/tanks/ust/index.htm

A BULLETIN OF THE OREGON UNDERGROUND STORAGE TANK PROGRAM

What's in This Issue?

- Message from Wendy Wiles, UST Program Manager
- Legislative Update
- Rules Update
- Pilot Field Citation Program Findings
- DEQ Website Updated
- Compliance Tips
- UST Cleanup Update—Revisions to Risk-Based Decision Making Spreadsheets
- **UST Cleanup Training on Revised RBDM Spreadsheets—April 17 and 19, 2007**

Message from Wendy Wiles, UST Program Manager

Recently my staff called your office to obtain your e-mail address. They explained my interest in periodically communicating with you about timely UST service provider and compliance issues via e-mail. In this first UST Service Provider E-Mail Bulletin I want to bring you up to date on UST issues being discussed with the legislature and advise you of some potential service provider and compliance rule changes. Elsewhere in this bulletin we discuss findings from the pilot UST field citation enforcement program and discuss some compliance tips we recently shared with tank owners through a Tankline Bulletin mailing. Finally, in the UST Cleanup article, please note the opportunity for training in mid-April on some recent changes to the risk-based decision making spreadsheets. If you have any comments on this first e-mail bulletin I would appreciate you sending them to me via e-mail to tanks.info@deq.state.or.us.

Legislative Update

DEQ has submitted Senate Bill (SB) 104 for legislative consideration. SB 104 will bolster the Underground Storage Tank (UST) assistance and oversight programs by:

- Increasing the annual UST permit fee to maintain the current level of compliance resources.
- Removing the sunset date for both the annual permit fee and associated late fee.
- Making permanent the program's field citation program and increasing the penalties.

DEQ's UST program currently operates with the minimum number of staff necessary to carry out its oversight program (8 full-time positions or FTE). Over the years, cost increases have reduced the number of staff the program can support. An increase in the annual per tank compliance fee to \$135 is proposed. The proposed fee increase will allow DEQ to maintain its current staffing level.

The field citation program reduces the amount of time DEQ spends on traditional enforcement efforts and allows the tank program to use more of its resources for working directly with facilities. It allows a facility to choose between the field citation enforcement approach and traditional enforcement which may include the assessment of a civil penalty. The current field citation penalties are \$50 or \$100 per violation and the maximum assessment during a single inspection cannot exceed \$300. Under this legislative proposal, the per violation penalty would range from \$50 to \$500 with the maximum field citation penalty during a single inspection not to exceed \$1,500. The proposed penalty amounts are consistent with similar field citation programs operated by the Washington Department of Ecology and the federal Environmental Protection Agency. Under formal enforcement, a civil penalty of up to \$10,000 per violation per day can be assessed. For more on the pilot field citation program see article entitled *Pilot Field Citation Program Findings* on Page 3.

Rules Update

The UST program has initiated rulemaking to implement changes anticipated by Oregon Legislative action (see Legislative Update in article above). Rulemaking is also needed to adopt the UST provisions in the federal Energy Policy Act of 2005, to clarify existing rules where implementation problems with the rules have been identified and to make changes to the UST permitting program. Lastly changes are being proposed to the UST Service Provider and UST Soil Matrix Service Provider Licensing requirements.

Changes to the UST Permitting Program

Proposed changes to the UST permitting program include implementing an annual permit renewal program including documenting compliance with financial responsibility. It is expected that annual permit renewals will also help tank owners and DEQ staff keep on top of the many changes of facility ownership that occur and often go unreported.

Changes Required by the federal Energy Policy Act (EPACT) of 2005 Title XV—Ethanol and Motor Fuels Subtitle B—Underground Storage Tank Compliance Act (USTCA)

The Environmental Protection Agency (EPA) is currently adopting the guidance necessary to implement the USTCA provisions. In order to maintain federal LUST Trust Fund funding of state petroleum cleanup programs, states must demonstrate equivalent state authority in laws and rules. Early implementation requirements include:

- February 8, 2007—Secondary containment requirements for new UST system installations and replacement of tanks and piping
- August 8, 2007—Delivery prohibition for non-complying tanks
- August 8, 2009—Operator training requirements

Changes to the UST Service Provider and UST Soil Matrix Service Provider Licensing Programs

DEQ is proposing to change the license renewal period for both licenses from annual to every

two years. The fee for the licenses will be \$300 for a two year license. In the case of the soil matrix rules, DEQ is proposing to remove some obsolete provisions related to scheduling supervisor exams since all exams are being offered by several national testing companies.

DEQ will be communicating with tank owners and permittees, UST Service Providers and petroleum associations throughout the rulemaking process. DEQ hopes to complete the rulemaking process in December 2007.

Pilot Field Citation Program Findings

Beginning in February 2004, DEQ UST Inspectors had the opportunity to address certain UST violations by issuing a field citation at the time of the inspection. The penalty for any violation could not exceed \$100 and the total penalty for all violations during a single inspection could not exceed \$300. In lieu of accepting a field citation, the tank owner or permittee would be subject to traditional enforcement, including the assessment of a civil penalty.

Between February 2004 and June 2006, 898 Significant Operational Compliance (SOC) inspections were completed by UST inspectors. Of those, 594 facilities were found SOC compliant (66%), 225 facilities were issued a field citation (25%), 34 facilities were assessed civil penalties (4%) and 45 inspections were still in progress (5%) at the time of the report.

Of the 449 violations cited under the pilot field citation program, 394 or almost 90 % involved:

- Tank release detection requirements 137 (31%)
- Pipe release detection requirements 115 (26%)
- Spill and Overfill requirements 68 (15%)
- Testing of Corrosion Protection equipment 46 (10%)
- Corrosion protection equipment not installed 28 (6%)
- Remaining miscellaneous violations 55 (12%)

Under the field citation program, \$23,025 has been assessed and collected. The average field citation penalty written was for \$100. Under the formal enforcement actions, \$299,750 was initially assessed as civil penalties. Of the 19 civil penalty actions settled at the time of the report, \$54,315 was collected or an average of \$2,859 per action. All monies collected through the field citation and civil penalty programs go into a dedicated fund and are spent for the administration of the underground storage tank program.

DEQ believes the pilot field citation program is successful because:

- Facilities receive immediate feedback on the compliance status of their facility and what work is needed to achieve compliance.
- Field citations are less burdensome on the small business owner due to the lower cost of field citation penalties compared to formal enforcement involving civil penalty assessments.
- DEQ staff are able to inspect more facilities which has the dual benefit of increasing compliance while streamlining enforcement and keeping DEQ costs low.
- More frequent inspections help keep a level playing field.
- More frequent inspections also help to insure that owners detect potential leaks early, thereby protecting groundwater and reducing potential cleanup costs.

Website Updated

By now some of you may have experienced the downside of website updating projects—broken connections or links. DEQ is in the process of a major website upgrade to conform to standards required by the Governor’s Office and to simplify future administration of the numerous web-pages on the site. The public launch of the revised website occurred December 1, 2006 and the immediate impact was that a number of outside “Bookmark” links to favorite pages were broken. The main UST Program WebPage is now found at <http://www.deq.state.or.us/lq/tanks/ust/index.htm>. For those of you interested in the heating oil tank program the main HOT WebPage is found at <http://www.deq.state.or.us/lq/tanks/hot/index.htm>.

The UST staff is currently reviewing all UST and HOT WebPages, forms, fact sheets and guidance documents to fix any remaining broken links. The UST staff welcomes comments or suggestions on the new UST, LUST and HOT pages. The best way to get those comments or suggestions to us is via e-mail: for UST and LUST related items use tanks.info@deq.state.or.us and for HOT related items use hotinfo@deq.state.or.us.

Compliance Tips

Automatic Line Leaks Detectors

DEQ and EPA inspectors want to remind Service Providers who work on automatic line leak detectors (ALLDs) that the rules require an annual functionality test of the ALLD in accordance with the manufacturer’s testing protocols. During future UST inspections, UST inspectors will ask to review the results of the annual functionality test. If Service Providers perform this work for tank owners, it is essential that the Service Provider leaves good records and stress to the tank owners the importance of retaining these records for future review by UST inspectors. See rule OAR 340-150-0410 (2) (c).

Documenting Tightness of Interstitial Monitoring Spaces

UST inspectors also want to remind Service Providers that install interstitial monitoring on piping runs that they must provide the tank owner with documentation that the interstitial space is tight. The tightness test may be performed at the time of installation, or subsequently, but there must be documentation to show that the secondary containment piping is tight and capable of retaining a regulated substance at all times. See rule OAR 340-150-0465 (1)(b).

Corrosion Expert’s Design Required for any Field-Installed Corrosion Protection System

Service Providers are reminded that a corrosion expert must design any field-installed corrosion protection system. This includes even simple spike anode systems to protect short pieces of metal UST piping. UST inspectors may be asked to see documentation of the corrosion expert’s design of the corrosion protection system. See rule OAR 340-150-0320 (3)(b).

Quality of Corrosion Inspection Documentation Important

Properly operating corrosion protection systems are critical to the long term integrity of UST

systems containing metal components in contact with soil. To insure the proper functioning of galvanic or impressed current cathodic protection systems regular testing is required. UST inspectors will ask tank owners and permittees to see documentation of corrosion protection tests including such details as reference locations, structure contact points, continuity testing of impressed current systems and review of previous cathodic protection system test procedures.

Because the test procedures are very specific and detailed, UST inspectors have developed a form to capture all the required information. The form is entitled *Cathodic Protection Test Report Form* (DEQ-06-LQ-019, March 2006) and it is available to download off DEQ's UST Website at <http://www.deq.state.or.us/lq/tanks/ust/index.htm>. UST inspectors encourage tank owners, permittees and UST contractors to use this form or develop a similar form of their own. Having incomplete corrosion protection testing records is one of the more common compliance violations cited by UST inspectors. See rule OAR 340-150-0325 (6).

It is important that Service Providers who perform this work leave adequate and complete records with tank owners and stress to tank owners the importance of retaining these records for future review by UST inspectors.

UST Cleanup Update

DEQ Updates Risk-Based Concentrations (RBCs) for Select Petroleum Constituents

In March 2005, EPA issued new *Guidelines for Carcinogenic Risk Assessment* (EPA/630/P-03/001B), updating the 1986 guidelines and 1999 interim final guidelines. Also included was *Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens* (EPA/630/R-03/003F). DEQ typically follows EPA risk assessment guidance. In the *Supplemental Guidance*, EPA concludes that some chemicals (carcinogens acting by a mutagenic mode of action) have a greater cancer impact if exposure occurs during childhood. This changes the way DEQ will perform risk assessments involving residential exposure and changes some risk-based concentrations (RBCs) presented in DEQ's guidance for "Risk-Based Decision Making for the Remediation of Petroleum-Contaminated Sites," September 22, 2003.

DEQ is now requiring the consideration of early-life exposure on all human health risk assessments for sites where the relevant exposure scenarios include residential site use or other uses where childhood exposure is likely. Cancer risk will now be evaluated using different adjusted potency factors for three life stages (0 – 2 years, 2 – 16 years, and adult). We previously used only one potency factor for two life stages (child 0 – 6 years, and adult). In conjunction, DEQ has revised the risk-based decision making spreadsheets by developing RBCs for carcinogenic polycyclic aromatic hydrocarbons and vinyl chloride based on early-life exposure revisions.

In the future, if EPA includes additional chemicals for early-life consideration, the appropriate RBC screening values can be calculated using the RBC spreadsheet. To activate the early-life option for additional chemicals, go to the Toxicological Data sheet, and change the Early Life designation from "n" to "y". Then click the Recalculate button to automatically calculate RBCs based on early-life exposure for these additional chemicals. DEQ will routinely update RBC screening values in January of each year. Under special circumstances, RBCs for a chemical may be updated at any time based on revised toxicity information.

For more information about these changes, please visit our webpage at: <http://www.deq.state.or.us/lq/rbdm.htm> and review the section entitled *Notes on Updates to Spreadsheets (March 2007)*. For additional information on incorporating early-life exposure into risk assessments or the calculation of RBCs, see the following memorandum: [Memo on Incorporation of Early-Life Exposure in Human Health Risk Assessments](#).

In addition to these changes to risk-based concentrations, DEQ will be adopting EPA Region 6 screening values. These values will be secondary to the risk-based concentrations (RBCs) calculated by DEQ, to be used primarily for chemicals for which we have not calculated RBCs. Historically, DEQ has deferred to EPA Region 9 Preliminary Remediation Goals, but Region 9 is no longer updating these values. Therefore, we will use Region 6 screening values that are updated annually. Region 6 screening values may be found at: http://www.epa.gov/earth1r6/6pd/rcra_c/pd-n/screen.htm.

Implementation Schedule

The revised RBCs and EPA Region 6 Screening Values for other chemicals of interest should be implemented according the following guidelines:

- For all newly initiated RBDM screening evaluations at a site, the recently revised RBCs and EPA Region 6 screening values will be used from this point forward.
- For RBDM screening evaluations currently being performed, the revised RBCs and EPA Region 6 screening values will be used on a case-by-case basis.
- For completed RBDM screening evaluations submitted before April 2, 2007, reassessments may be performed on a case-by-case basis when a new decision is required that needs to be supported by a screening evaluation or updated risk assessment. Until that time, the current completed and approved screening evaluation will continue to be considered valid based on the guidance used when the assessment was completed.

UST Cleanup Training—April 17 and 19, 2007— Register Early!

DEQ Offers Training on Updates to Risk-Based Decision Making Spreadsheets

DEQ is offering training on the revisions to the risk-based decision making (RBDM) spreadsheets on April 17th in Portland and April 19th in Tigard on a space available basis. For details on the training and a copy of the registration form go to DEQ's Website at: <http://www.deq.state.or.us/lq/pubs/forms/cu/TrainingRegistration.pdf>.

In many cases, DEQ has only one e-mail contact per Service Provider who receives this *E-Mail Bulletin*. Please forward this information on RBDM spreadsheet training to all appropriate staff within your firm.

Contacting DEQ Regional Tank Staff

Tank Staff are available at the following offices:

In Northwest Oregon (Clatsop, Clackamas, Columbia, Multnomah, Tillamook and Washington counties):

- Portland, 2020 SW Fourth Ave., Suite 400, 503-229-5263

In Western Oregon (Benton, Coos, Curry, Douglas, Jackson, Josephine, Lane, Lincoln, Linn, Marion, Polk and Yamhill counties):

- Salem office: 750 Front St. NE, Suite 120, 503-378-8240.
- Eugene office: 165 East 7th Avenue, Suite 100, 541-686-7838.
- Coos Bay office: 381 N. Second Street., 541-269-2721 ext 31.

In Eastern Oregon (Baker, Crook, Deschutes, Gilliam, Grant, Harney, Hood River, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco and Wheeler counties):

- The Dalles office: Columbia Gorge Community College, 400 E. Scenic Drive, Building 2. 541-298-7255 ext. 21



Alternative formats

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Contact DEQ's Office of Communications & Outreach, Portland, at (503) 229-5696, or toll-free in Oregon at 1-800-452-4011, ext. 5696.