

TANK NOTES

STATE OF
NEW MEXICO
ENVIRONMENT
DEPARTMENT



... A Newsletter from
the Underground
Storage Tank Bureau

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New Mexico boasts high 1998 upgrade compliance rate

by Thomas Skibitski, Manager, Prevention and Inspection Program, UST Bureau

New Mexico's compliance record is among the best in the Southwest. As of June, over 98 percent of all regulated underground storage tanks were in compliance with 1998 upgrade requirements. This compares favorably with the national average of about 84%. Within EPA Region 6, comprising Oklahoma, Louisiana, Texas, Arkansas, and New Mexico, the average compliance rate is approximately 66 percent. One factor in our region's low overall average may be the sheer number of tanks involved. For example, Texas has more than 80,000 active tanks, 20 times more than New Mexico. The five states that make up Region 6 contain 14 percent of all USTs in the nation.

Approximately 224 tanks at 80 sites in New Mexico are currently in "Temporarily Closed" status. The next big deadline is December 22, 1999, at which time all tanks that were temporarily closed to meet the upgrade deadline must be removed, permanently closed, or upgraded. After that date, those tempo-

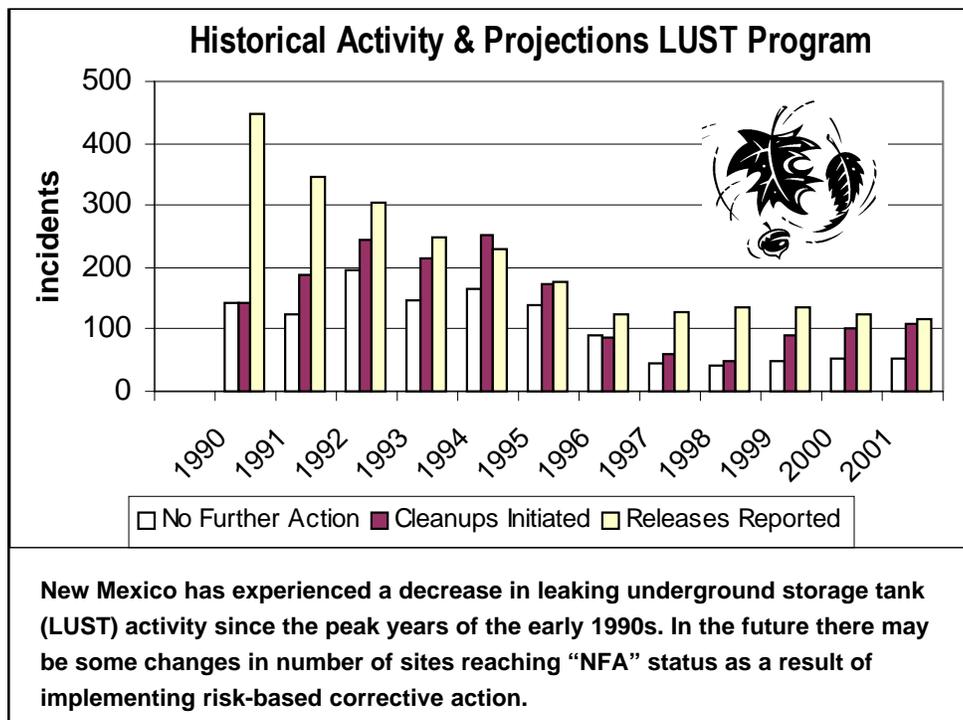
rarily closed tank systems will be out of compliance and will face enforcement action. Failure to properly close or upgrade temporarily closed tank systems will also jeopardize eligibility for reimbursement from the Corrective Action Fund. Please make arrangements soon to ensure that you remain in compliance with the regulations.

Fiscal year 2000 tank registration certificates are being mailed to each registered owner rather than to each facility site. The certificates this year (July 1, 1999 – June 30, 2000) are gold in color and must be displayed at the site where the USTs are located.

Facilities where tanks are temporarily closed will receive red colored certificates instead of gold ones. The

red certificates indicate that the tanks have been registered and the required fees have been paid.

Thank you for your continued cooperation in complying with the regulations. Pollution prevention is critical and is achievable through good management practices.



TANK NOTES

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This newsletter is for the UST owner/operator population and is provided as a general information guide only. It is not intended to replace, interpret or modify manufacturers' protocols, or the rules, regulations or requirements of local, state or federal government, nor is it intended as legal or official advice. The opinions expressed in articles written by NMED staff and others are those of the authors and do not necessarily reflect those of NMED.

We welcome your comments and suggestions. Send address changes and correspondence to: New Mexico Environment Department, Underground Storage Tank Bureau, Harold Runnels Building, 1190 St. Francis Drive, P.O. Box 26110, Santa Fe, New Mexico 87502.

Check out the USTB website at www.nmenv.state.nm.us/ust/ustbtop.html



Note from the Chief

by Stephen G. Reuter, Chief, UST Bureau

Summer has ended and it won't be long before the trees change into their fall explosion of color. With the change of the seasons, and as a reminder of the dynamic nature of the industry, there are some significant changes here at the Underground Storage Tank Bureau. In early August, I was named UST Bureau Chief after serving in the "acting-chief" capacity for approximately eight months. Margaret Trujillo, Financial Program Manager, was asked to lead the department's newly formed Purchasing Bureau. Thomas Skibitski, who most of you know as the Prevention/Inspection Program Manager, is now wearing two hats, temporarily managing the financial services program.

Other changes in the wind include implementation of RBCA, the risk-based approach to corrective action. The new regulations were unanimously adopted by the Environmental Improvement Board on September 10, 1999. See the story on page 3 for details.

I am looking forward to continuing the cooperative relationship that has developed between the bureau and the regulated community. This relationship is reflected in the positive participation at the bureau's August workshop on the "Pay-for-Performance" approach to site cleanup. Other workshops will be offered in the near future. Please call me at 505-827-0188, or any staff at the numbers listed in *Tank Notes*. We're from the government and we're here to help!

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Board unanimously approves revisions to UST regulations

By Anna Richards, Manager, Regulations, Data and Information Section, UST Bureau

 On September 10, 1999 the Environmental Improvement Board completed its public hearing on phase two of a comprehensive revision of the UST regulations and voted unanimously to approve the changes proposed by the department to 20 NMAC 5 parts 1, 2, 3, 6, 7, 8, 9, 10, 12, 13, 14, 15, and 16. The hearing focused primarily on changes to the corrective action regulations, including a proposed risk-based approach to management of petroleum releases.

The board praised both the work of the department and its presentation, and considered thoughtfully evidence that risk based corrective action/decision making for managing petroleum releases from USTs was working effectively in other states. It also made sure there was evidence that the approach used to set site-specific target levels was supported by tank owners and other bureaus in the department that oversee environmental cleanups.

Thirteen parties had submitted comments earlier in the rulemaking process, and the Environment Department was the only party that submitted technical testimony in the July 28-29 hearing. The City of Albuquerque, Los Alamos National Laboratory, Chevron, and the NM State Highway and Transportation Department as well as a small number of environmental consulting firms were the interested parties who attended the hearing.

The board held the hearing record open until September 10 so that it could receive additional evidence about RBCA and opinions from tank owners. The New Mexico Petroleum Marketers Association expressed its support of the proposed changes.

Secretary Maggiore has received the recommendation of the hearing officer from the May 1999 public hearing on proposed changes to 20 NMAC 5.17, Corrective Action Fund Administration Regulations. The department is coordinating further action on the two rulemaking processes because of the interdependence of the various parts. Implementation of the revised corrective action process will involve considerable training as well as distribution of the guidance document and other tools such as standardized worksheets and computational software. The effective date of the revised regulations will be February 2000.

Thanks to those who provided comments and participated in the lengthy process of revising the regulations, and there were many individuals who did. The department expects the changes to improve both protection of public health and the efficiency of the Corrective Action Fund.

The changes are still available to the public on the Web site or by contacting one of the bureau offices. Contact Anna Richards by e-mail or phone (505) 827-0158 for further information.

Note from Environmental Protection Division Director Jim Najima: Led by Anna Richards, the team responsible for this project and the public hearings did an exemplary job. Please take the opportunity to speak with Anna, Ana Marie Ortiz, Steve Reuter, Jerry Schoeppner, Pat DeGruyter, RAM Group Consultant Atul Salhotra, and Judy Flynn-O'Brien of the Institute of Public Law about their approach.

EPA updates tank financing and insurance booklets

The U.S. Environmental Protection Agency has updated its booklet *Financing Underground Storage Tank Work: Federal and State Assistance Programs*. The updated version (EPA-510-B-99-002, March 1999) will help UST owners and operators, especially those with tanks on tribal land, to obtain information about loans or grants for financing the costs of upgrading, replacing, or closing an UST, or of cleaning up a release. The booklet describes federal loan and grant programs which, while not designed specifically for UST work, do provide funding that owners and operators may be able to use for these activities. It also provides phone numbers and addresses in the states for various potential sources of financial assistance.

EPA has also updated its publication *List of Known Insurance Providers for Underground Storage Tanks*. This booklet (EPA 510-B-99-003, July 1999) provides UST owners and operators with a list of insurance providers who may be able to help UST owners and operators comply with financial responsibility requirements by providing a suitable insurance mechanism.

Copies of both are available from EPA at no cost. Call EPA's RCRA Hotline at 1-800-424-9346, or the National Service Center for Environmental Publications (NSCEP) at 1-800-490-9198, or use the Internet to download a copy (in PDF format) by going to <http://www.epa.gov/OUST/pubs/> You can also stop by an NMED district office or the UST Bureau in Santa Fe to look at the booklets.

U/ST, R U,

*Created by Bill Mansker, Ph.D.,
INEX, Innovation Explorations*

Release detection important as ever

By Gary Blocker, Environmental Supervisor, Prevention and Inspection Program, UST Bureau



Release detection has always been the primary concern of the Underground Storage Tank Bureau's Prevention/Inspection Section since the promulgation of the underground storage tank regulations. History has proven that cleaning up contamination after a spill or release is much more expensive than preventing or limiting the release. We also know that, despite our best efforts with newly improved technology, we can never completely recover all of the contaminants released.

The requirements for release detection may be reviewed by owners and operators in Part 6 of the UST Regulations (20 NMAC 5.6). Remember, both owners and operators are responsible for compliance with the regulations. The federal regulations contained a schedule for phase-in of release detection that was complete in 1993. With the December 22, 1998 deadline, phase-in for all equipment requirements was complete.

Here are some points about release detection to keep in mind:

- **Tank tightness testing** combined with **inventory control reconciliation** may be continued, but only for ten years after the tank was installed or upgraded to meet 20 NMAC 5.4.400 or 401 standards. If the tank met the standard on installation or was upgraded after installation and later another upgrade project provided overflow and overfill protection, the date of the earlier project is the one used for determining the last date acceptable to use tank tightness testing with inventory control reconciliation as the release detection method.
- Several tank owners and operators have asked about **statistical inventory reconciliation (SIR)** as a method they could use instead of tank tightness testing with inventory control reconciliation. **SIR** is approved for use under 20 NMAC 6.603.H, "Other Methods."
- **Vapor monitoring** (20 NMAC 5.6.603.E) and **groundwater monitoring** (20 NMAC 5.6.603.F) may be used after December 22, 1998. The disadvantage of the use of one of these methods is the fact that the release is discovered only after the contamination has moved from the tank or piping to the monitoring point. Considerable contamination can occur during the period between the monthly monitoring of these systems.
- **Interstitial monitoring** (20 NMAC 5.6.603.G) may be continued for tanks with secondary containment after December 22, 1998. While not as likely to result in the volume of contamination discussed in the prior paragraph, interstitial monitoring also utilizes detection outside of the tank or piping system.

- **Automatic tank gauging (ATG)** systems (20 NMAC 5.6.603.D) are becoming increasingly popular with owners and operators with the technological improvements that allow for documented testing results along with the elimination of the human error factor inherent in daily manual tank sticking. Several companies use earlier versions of ATG to collect data, then process the data through SIR. The newer ATG systems may be configured to the individual need of a facility. These sophisticated systems may offer tank, line and leak detector testing as their primary function and additional monitoring of island and pump containment sumps, vapor wells, and/or interstitial spaces. This continuous statistical leak detection (CSLD) provides the most current evaluation of the entire UST system for the owner or operator. Daily checks of the printouts is possible with this method. The records must be kept for review by Prevention/Inspection personnel during compliance inspections.

It is NOT the intent of the bureau to favor one acceptable release detection method over another. The discussion presented here is simply the result of observations of a Prevention/Inspection field inspector during compliance inspections and/or resulting closure inspections.

Owners and operators are reminded that regardless of the choice of method, monthly monitoring must be conducted for whatever method is used. This is the responsibility of the owner and operator. **If you have contracted with a service provider outside of your company to conduct your monthly monitoring you are still responsible for compliance.**

If the required monitoring is not documented to the satisfaction of the bureau, or if the result of the required testing indicates a possible release and the required investigation has not been conducted, the Prevention/Inspection field inspector is required to issue a Notice of Violation.

A determination of being in "substantial compliance" with the UST Regulations is one of the requirements for access to the Corrective Action Fund. While the Fund was never intended to be an enforcement tool for Prevention/Inspection personnel, owners and operators need to realize that release detection violations could endanger eventual access to this important resource if contamination from a UST is ever found at the facility.

Prevention/Inspection personnel are your primary source for information about compliance requirements at your facility. Please call on them.

Their telephone numbers are in every issue of *Tank Notes*.





The view from U.S. EPA: Program direction for 1999 and beyond



by Sammy Ng, Acting Director, Office of Underground Storage Tanks (OUST), U.S. Environmental Protection Agency

With the passing of the 1998 deadline for owners to comply with requirements for upgrading, replacing, or closing substandard USTs, we have heard comments that the UST program work is now complete. Information from states and the Petroleum Equipment Institute suggest that the rate of compliance with the 1998 deadline is approximately 80 percent nationwide and continuing to increase. While it is true that some of our work is complete, we still need to ensure that all owners comply with the technical requirements. For example, although owners installed leak detection equipment on their tanks, a significant percentage of leak detection systems may not be operated or maintained properly. EPA wants to prevent the next generation of leaking USTs and will work closely with states to improve compliance rates. EPA will continue to work cooperatively with owners, industry, and regulators to ensure that preventing releases from USTs becomes a common business practice. If releases do occur, the EPA will address them appropriately and cost-effectively.

Over the past year, OUST has gathered stakeholder feedback that confirms we still have much work to do on certain issues:

- preventing leaks
- addressing the approximately 170,000 cleanups yet to be completed
- ensuring that human health and the environment are protected

We have identified the following priority work areas:

- UST system evaluation
- operation and maintenance of UST systems
- temporarily closed tanks
- corrective action
- USTs in Indian country

UST system evaluation. A significant challenge to the UST program is to prevent leaks by ensuring that tank systems are safe and managed properly. EPA will work to help states evaluate the effectiveness of UST systems—especially leak detection, cathodic protection and tank lining—to ascertain that they operate properly and to identify ways in which these systems can be improved.

Anecdotal evidence suggests that UST systems performance has improved greatly over the last decade. We need to conduct a more comprehensive effort to validate and verify claims and identify areas that require improvement. EPA is particularly interested in field performance over time vs. factory testing, which gives only the best possible results.

Initial evaluation steps include the following:

- conducting a study of leak detection system performance (under the aegis of the University of California-Davis)
- gathering qualitative input from experienced people
- compiling existing studies and databases

Operation and maintenance of UST systems. To achieve the goal of preventing another generation of LUSTS, EPA wants to establish that owners/operators are properly operating and maintaining their UST systems and using quality tank management practices. Owners/operators often do not have adequate knowledge of equipment usage and procedures. To resolve this dilemma, we have begun by forming an EPA-state workgroup whose goal is to share and develop ideas. In addition, EPA is assisting the U.S. Postal Service in developing their O&M plan. Over the next few months, EPA will gather O&M information and work with EPA offices, states, industry and trade associations to improve implementation of quality O&M ideas.

Temporarily closed tanks. To meet the 1998 upgrade requirements, many owners temporarily closed their tank systems. EPA estimates that as of February 1999, 73,000 tanks were temporarily closed. Temporary closure of substandard systems may not exceed 12 months unless the implementing agency grants an extension. Owners who temporarily closed tanks should now make efforts to close permanently, upgrade, or replace their USTs. State and federal regulators will be working to ensure that owners take appropriate action regarding these USTs.

Corrective action. EPA's work in the corrective action area has been and will continue to be extremely important to the UST program's success. As of March 1999, approximately 170,000 cleanups had not been completed; EPA estimates that as many as 80,000 additional releases may be confirmed before 2005. The UST program has a reputation for innovation, as well as serving as a model for other environmental programs. Thus, we are continuing our corrective action efforts in two innovative areas: risk-based decision making (RBDM) and pay for performance (PFP).

EPA advocates using RBDM at corrective action sites. RBDM provides UST implementing agencies with a reliable process to help them determine management, extent and urgency of corrective actions. Progress in this area is indicated by cooperation of the various stakeholders (federal, state, and private sector) to foster change. EPA is measuring RBDM performance in pilot programs by analyzing the effects of RBDM on the following:

- reducing risk
- expediting closure of impacted sites
- improving cost control and resource allocation

Early results suggest that states using RBDM have realized increased closure rates and benefited from a decreased backlog of releases.

Additionally, EPA is championing the use of the PFP approach to UST cleanups. The PFP concept is based on the premise that states pay cleanup contractors only for actual contamination reductions. The data show that PFP cleanups can reach environmental goals in half the time required by traditional ways of paying for UST cleanups. In addition, PFP cleanups can be 35 to 50 percent less costly. EPA is working with stakeholders on creating and operating PFP cleanup programs, as well as continuing to document effectiveness and efficiency.

EPA is also developing strategies for reusing UST fields, those commercial and industrial sites where gasoline and other regulated substances from USTs contaminated the environment. After corrective action work has been completed, UST field properties can be restored and reused, serving as a community asset. EPA is working to prevent future UST fields and encouraging states to use scientifically sound, rapid, and cost-effective corrective action at LUST sites.

USTs in Indian country. EPA has primary responsibility to implement the UST program in Indian country. Approximately 3,000 active USTs exist and 3,700 closed USTs may require additional remediation work. These UST owners/operators often do not have sufficient funds to fulfill O&M and cleanup requirements. EPA is taking steps to ensure that these owners/operators will continue to make progress despite institutional barriers to providing funds in Indian country.

We greatly appreciate the exemplary efforts over many years from owners, industry and regulators who have worked diligently to prevent and clean up leaks from USTs. Together we have made significant progress. We can be quite proud of our accomplishments. By continuing to work together, we will make advances in ensuring that leak prevention is a common business practice.

Reprinted from Underground Tank Technology Update, University of Wisconsin - Madison, Sept/Oct 1999.

Leak o' the Week

Report releases to the following staff during working hours. For emergencies during evenings and weekends, call the NMED emergency number: 827-9329

Oct 4 - 8	Tim Eckert	827-2914
Oct 11 - 15	Jane Cramer	841-9477
Oct 18 - 22	Lisa Schall	827-2916
Oct 25 - 29	David Nye	841-9478
Nov 1 - 5	Brian Salem	827-2926
Nov 8 - 12	Norman Pricer	841-9189
Nov 15 - 19	Steve Jetter	841-9461
Nov 22 - 26	Tom Leck	841-9479
Nov 29 - Dec 3	Lorena Goerger	827-0110
Dec 6 - 10	Tim Eckert	827-2914
Dec 13 - 17	Jane Cramer	841-9477
Dec 20 - 24	Lisa Schall	827-2916
Dec 27 - 31	David Nye	841-9478
Jan 3 - 07	Brian Salem	827-2926
Jan 10 - 14	Norman Pricer	841-9189
Jan 17 - 21	Steve Jetter	841-9461
Jan 24 - 28	Tom Leck	841-9479
Jan 31 - Feb 4	Lorena Goerger	827-0110
Feb 7 - 11	Tim Eckert	827-2914
Feb 14 - 18	Jane Cramer	841-9477
Feb 21 - 25	Lisa Schall	827-2916
Feb 28 - Mar 3	David Nye	841-9478
Mar 6 - 10	Brian Salem	827-2926
Mar 13 - 17	Norman Pricer	841-9189
Mar 20 - 24	Steve Jetter	841-9461
Mar 27 - 31	Tom Leck	841-9479

Loading fee decreases; CAF remains healthy

By Margaret Trujillo, Manager, Financial Services Program, UST Bureau [now Manager of the Purchasing Bureau]

The Corrective Action Fund reported a healthy, "end-of-fiscal-year" unobligated balance of approximately \$16 million. As a result, beginning October 1, 1999, the petroleum products loading fee will drop from \$120 per load to \$80 per load. The law creating the funding mechanism includes a provision that the loading fee decreases when the unobligated balance exceeds \$12 million.

The reduced fee is expected to generate \$450,000 in revenue per month, compared to \$900,000 per month at the current rate. Nevertheless, the department predicts there will be sufficient funds to cover the costs of corrective action statewide, assuming claims continue to be filed at the current rate.

An unobligated balance of less than \$12 million triggers an increase in the loading fee, under state law.

UST, R U,
Crossword Puzzle Solution

**YES, ANOTHER
DEADLINE.**

**"TEMPORARILY
CLOSED" TANKS AT
YOUR SITE HAVE TO
BE PERMANENTLY
CLOSED, REMOVED,
OR UPGRADED BY
DEC. 22, 1999.**



Check out the USTB website at www.nmenv.state.nm.us/ust/ustbtop.html

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