



## NEWS OF VALUE

### UNDERGROUND STORAGE TANKS

Underground Storage Tanks (USTs) are commonly used for the storage of petroleum—most often for heating purposes and for vehicles. Community associations may be responsible for USTs as a backup source for heat and/or to run a generator during a power outage. Because USTs store hazardous material, guidelines have been established to ensure they are installed and maintained properly. A tank is defined as an Underground Storage Tank if *10 percent or more* of its total volume (space occupied) is below ground. Don't be misled—the criteria of 10 percent or more includes the underground plumbing and pipes that lead to and connect to the tank; accordingly, some tanks *above* ground must also conform to UST guidelines.

#### UST Federal and State Compliance

UST guidelines are federally governed by the Environmental Protection Agency (EPA) and also quite frequently by state regulations. Installation, maintenance, and financial responsibility of USTs are critical issues. When USTs were first designed in the 1920s, provisions to monitor and protect against **leakage, spills, overfills, and corrosion** weren't considered. Consequently, either the *owner* of a UST containing petroleum or its *operator* must meet the EPA's compliance standard of **physical proof** of financial protection in the event a tank causes damages to a person, property, or the environment (bodily injury or property damage to a third party). Bearing financial burden also includes corrective action cost. Non-compliance with EPA UST guidelines can result in a fine.

#### Why It Matters

With millions of gallons of gasoline, oil, and other petroleum products stored in underground storage tanks throughout the U.S., leaking tanks are a major source of soil and groundwater contamination. Laws and regulations have been established both at the federal and state levels to reduce UST claims. Determining monetary responsibility in the event of a UST claim is important for several obvious reasons, but most importantly, it allows a rapid response to clean up in the event of an accident. This reduces the spread of the contamination and minimizes environmental and health risks.

#### Financial Responsibility

Under federal law (the Resource Conservation and Recovery Act—RCRA), the responsible owners or operators of USTs must demonstrate their ability to pay the costs associated with UST claims. This includes compensating third parties for bodily injury and property damage caused by USTs. Many states require proof of financial responsibility for the UST **on site**. Proof is most commonly in the form of a Certificate of Insurance.

A Certificate of Insurance is a document highlighting specific insurance policy coverage and limit information pertaining to the UST. It states the insurance carrier, the named insured, the policy period, the location of the UST, and more. If additional coverage is “endorsed” on to an existing policy to provide UST financial protection, pertinent endorsement information should also be included on the Certificate of Insurance, preferably with a copy of the endorsement attached to the certificate.

Other acceptable methods to confirm financial responsibility are using state funds; obtaining a guarantee, a surety bond, or a letter of credit; passing a financial test; creating a trust fund; or using other state methods. The state of Maryland now **requires** owners or operators to have proof of financial responsibility **at the facility** where the UST is located.



**Insurance Coverage**

If a community association is responsible for a UST, we recommend purchasing an insurance policy specifically designed for USTs. The Insurance Services Office (ISO) and the EPA created a UST insurance policy in 1991. The joint effort provides policyholders with comprehensive protection and satisfies the EPA's financial requirements. The amount of coverage purchased is determined by the type of business you operate, the amount of throughput of your tank, the number of tanks you have, and the recommendation of your insurance agent. You should be aware that insurance carriers may require you to meet certain conditions for coverage. For example, your insurer may require you to test your tank for tightness or make improvements in your tank system, such as adding corrosion protection.

**UST Responsibility for an Owner or Operator**

The responsible party (owner or operator) of an Underground Storage Tank must notify either the EPA or a cooperating state agency of the following:

1. Existence of a tank.
2. Steps taken to detect leaks.
3. Regular maintenance records.
4. Release of any material from the tank.
5. Corrective actions to take in the event of a problem.
6. The closing of an unfit tank.
7. The person(s) bearing financial responsibility for damages resulting from the UST.

Older USTs often require corrective actions that can be extremely costly. This can include retrofitting, replacing, or sealing existing tanks and ground clean up as a result of leakage. Securing USTs should be a priority for community associations. A plan should be pre-determined in the event the UST causes a problem. Resources should be pre-determined with all contact information readily available. The cost of cleaning up a leaky UST is enormous: to clean up the soil from a spilled 55 gallon drum of oil is \$250,000-\$350,000; to clean up groundwater from a similar spill is more than \$1 million.

**Installation and Operation Requirements**

UST regulations also include specific protocol for detection and prevention of leaks. You must have leak detection, corrosion protection, and spill/overflow prevention procedures. These requirements vary from state to state and depend upon when your UST was installed. The EPA offers free UST publications to assist with their requirements and compliance. We suggest you get a copy of *Musts for USTs: A Summary of the Federal Regulations for Underground Storage Tank Systems* (EPA 510-K-95-002). Either call the EPA toll-free hotline listed below or download the document at <http://www.epa.gov/OUST/pubs/musts.htm>.

**Federal and State Contact Information**

EPA .....<http://www.epa.gov/OUST/> or 1-800-424-9346  
DC.....<http://doh.dc.gov/doh/cwp/> or 202-535-2525  
Maryland .....[http://www.mde.state.md.us/Programs/LandPrograms/Oil\\_Control/USThome/](http://www.mde.state.md.us/Programs/LandPrograms/Oil_Control/USThome/)  
or 410-537-3442  
Virginia .....<http://www.deq.virginia.gov/tanks/usts.html> or 804-698-4313  
General .....<http://www.nwglde.org/> (National Work Group on Leak Detection Evaluations)

**For More Information**

The information contained herein is general in nature and by no means should be considered all inclusive. If you have any questions, please contact Steve Dickerson (703-205-8788 or [Steve.Dickerson@usi.biz](mailto:Steve.Dickerson@usi.biz)) or Theresa Swan (703-205-8753 or [Theresa.Swan@usi.biz](mailto:Theresa.Swan@usi.biz)).