EPA Issues New Rules for Underground Storage Tanks

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Categories:
Publications

EPA has issued new rules for the installation, operation, and maintenance of underground storage tanks (USTs). The changes include:

- removing previous deferrals for certain USTs
- establishing new construction requirements for newly installed UST systems
- adding new notification requirements
- strengthening operator training procedures
- imposing regular equipment testing and inspections
- creating a "safe harbor" when using established codes of practice

Previously Deferred USTs

USTs that stored fuel for emergency power generators, were constructed in the field, or were part of an airport fuel hydrant system were previously exempted from some or all of the EPA's requirements. With the new rule, owners and operators of USTs that store fuel for emergency power generators will need to install and operate release detection. Owners and operators of field constructed tanks and fuel hydrant systems must follow the requirements for release reporting, response and investigation, closure, financial responsibility and notification.

New Construction Requirements

New and replacement USTs and piping must be constructed with secondary containment and interstitial monitoring. The requirement also applies to replacement piping if the repair involves at least 50% of the existing piping. Flow restrictors in vent lines (a/k/a Ball Float Valves) cannot be used to meet the overfill prevention equipment requirement for newly installed USTs or when existing flow restrictors are replaced. All new dispenser systems must have

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under-dispenser containment.

Notification Requirements

UST owners are now required to provide notice to their applicable regulatory authority within 30 days of an UST ownership change. Additionally, owners and operators are required to give notice to their applicable regulatory authority at least 30 days before switching to a fuel containing more than 10% ethanol or 20% biodiesel and demonstrate that the fuel will be compatible with the UST system.

Operator Training

The owner or operator of an UST must designate at least one person as a Class A or B Operator. Employees who are involved in day-to-day operation of the UST and are responsible for taking appropriate actions in response to emergencies or alarms caused by spills or releases must be at least Class C Operators. Class A, B and C Operators must be trained in keeping with their respective responsibilities. The UST owner or operator must maintain: a list of the trained employees; the date the employee assumed duties, and the date(s) of training (initial and repeat).

Operations & Maintenance – Inspections

A trained operator must conduct a walkthrough inspection every 30 days. The inspection must examine spill prevention and release detection equipment. Release detection alarms must be tested annually to ensure equipment is operating properly. Spill prevention equipment such as fill port buckets, overfill prevention equipment and containment sumps, must be tested every three years.

Codes of Practice; Safe Harbor

Sprinkled throughout the new UST rules are “Notes” referencing codes of practice that may be used to comply with the requirements. Using the listed code creates a “safe harbor” for compliance. Additionally, EPA has stated that the version or edition

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of the code of practice to be implemented should be the most current version or edition at the time the work is performed.

What's Next?

UST owners located in states that have EPA-approved programs may continue to follow their respective state requirements until they have been updated to be consistent with the new federal rules. UST owners located in states that do not have EPA-approved programs (this includes Kentucky and Ohio) must meet their existing state requirements **and** the new federal EPA rules.

If you have any further questions about the new rules or any other environmental regulatory issues, please contact Philip J. Schworer, Joseph M. Reidy or any other attorney in Frost Brown Todd's Environmental Practice Group.

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