



Underground Storage Tank Technical Compendium References: Closure

U.S. EPA Office of Underground Storage Tanks

The compendium contains interpretations and guidance letters sent out by the Office of Underground Storage Tanks. These references are cited within the underground storage tanks technical compendium at <http://www2.epa.gov/ust/underground-storage-tank-technical-compendium>.

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

FEB 16 1990

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

Honorable Donald W. Riegle
United States Senator
Central Regional Office
705 Washington Square Building
109 West Michigan Avenue
Lansing, Michigan 48933"

Dear Senator Riegle:

Thank you for your letter of January 25, 1990, on behalf of your constituent, Mrs. Erna Seiss, who requested information about closure requirements for underground storage tanks (USTs) that were closed nearly 30 years ago.

Federal UST regulations do not require that all USTs closed before the regulations became effective (December 1988) meet the full range of closure requirements, which can include tank removal or closure in place and site assessment. Instead, EPA believes that -- for tanks closed before December 1988-- the closure provisions should only be applied selectively under the discretionary authority of the implementing agency, in your constituent's case, the Michigan Fire Marshal. These agencies are in the best position to identify old tanks that may have been improperly closed, and to gauge the nature and extent of the threat posed by those tanks. Thus, the regulations do not require owners and operators of previously closed tanks to comply with the closure provisions unless they are directed to do so by the implementing agency when it determines there is a reasonable probability that the tank poses a potential threat to human health and the environment either now or in the future. There are no "waivers" available from EPA that would remove any requirements placed on your constituent's USTs as determined by the Michigan Fire Marshal.

I hope that the information in this letter will be helpful to you in responding to your constituent. Please do not hesitate to contact me if I can be of any further assistance.

sincerely yours,

Ronald Brand, Director
Office of Underground Storage Tanks



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAR 28 1990

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

Honorable Marvin Leath
House of Representatives
Washington, D.C. 20515

Dear Mr. Leath:

Thank you for your letter of March 1, 1990, on behalf of your constituent Mr. Conner S. Scott, who wanted clarification concerning the effect on closed tanks on the Federal regulations for underground storage tanks (USTs).

Let me begin by providing some background on these new rules. In 1984, Congress responded to the increasing threat to ground water from leaking USTs by adding Subtitle I to the Resource Conservation and Recovery Act. This section of the law required the Environmental Protection Agency to develop a comprehensive regulatory program for USTs. Congress directed us to publish regulations that would require tank owners and operators to prevent and detect leaks from new tanks and tanks already in the ground, to clean up leaks from these tanks, and to show that they are financially capable of cleaning up any leaks that could occur and compensating third parties for any damages resulting from such leaks. For your constituent's information, I have enclosed copies of two brochures ("Musts for USTs" and "Dollars and Sense") that summarize the regulations in "plain English."

According to your constituent's letter, the Phillips brothers' USTs have not been in operation since approximately 1980. Based on this information these tanks are not subject to the Federal closure requirements unless the implementing agency decides this action is necessary. Each state implementing agency can design a regulatory program based on their state's needs and the Texas Water commission has adopted closure requirements different from the Federal standards. These more stringent rules reflect the State's choices about how best to protect their groundwater.

I hope that the information we have provided will be helpful to you in responding to your constituent. Please do not hesitate to contact me if I can be of any additional assistance.

Sincerely,

[Unknown Signer/Signature]



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

1990

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

Mr. Christopher C. Gilmore
P.O. Box 5360
Beaumont, Texas 77726-0360

Dear Mr. Gilmore:

Thank you for your letter of March 20, 1990, in which you requested information on closure requirements for abandoned underground storage tanks (USTS).

Let me begin by providing some background on the Federal regulations for USTs. In 1984, Congress responded to the increasing threat to ground water from leaking USTs by adding subtitle I to the Resource Conservation and Recovery Act. This section of the law required the Environmental protection Agency (EPA) to develop a comprehensive regulatory program for USTs. Congress directed us to publish regulations that would require tank owners and operators to prevent and detect leaks from new tanks and tanks already in the ground, to clean up leaks from these tanks, and to show that they are financially capable of cleaning up any leaks that could occur and compensating third parties for any damages resulting from such leaks. For your information, we have enclosed copies of two brochures ("Musts for USTs" and "Dollars and Sense") that summarize the regulations in "plain English."

Your letter does not indicate when the USTs in question were closed or abandoned, and this date determines which of the following actions are appropriate. Tanks closed or abandoned after the effective date of the UST regulations (December 22, 1988) need to meet the Federal closure requirements described in the enclosed "Musts for USTs." However, State requirements can be more stringent than Federal requirements. Although site assessment is one of the Federal requirements, EPA does not directly conduct these inspections. For information on specific closure requirements and procedures in your state, you should contact Jackie Hardee, UST coordinator for the Texas Water commission, at (512) 463-8180. For information on proper tank closure procedures, you may want to consult "Tank Closure Without Tears" (see the second page of the enclosed publications list for ordering instructions).

Tanks closed or abandoned before the effective date of the UST regulations (December 22, 1988) need to meet Federal closure requirements only if the State implementing agency decides this action is necessary. State environmental regulators can require owners of these USTs to investigate their UST sites for contamination caused by leaking USTs and to close their USTs permanently in accordance with applicable State and Federal requirements for tank closure (as described in the enclosed "Musts for USTs")

The Agency has given this discretionary authority to local implementing agencies because these agencies are in the best position to identify abandoned tanks that may have been improperly closed, and to gauge the nature and extent of the threat posed by those tanks. They are also better able to identify the responsible owners and define the appropriate site assessment techniques. Thus, the Federal UST regulations require owners and operators of abandoned tanks to comply with the closure provisions if so directed by the implementing agency when it determines there is a reasonable probability that the tank poses a potential threat to human health and the environment.

You should note, however, that if at any point before permanent closure the USTs in question should ever be reactivated, the State environmental agency would have to be notified and the USTS would need to meet all the requirements for active USTs (as described in the enclosed brochures).

I hope that the information we have provided will be helpful to you. Please do not hesitate to contact me if I can be of any additional assistance.

sincerely,

Ronald Brand, Director
Office of Underground Storage Tanks

Enclosures



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

February 26, 1991

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

Mr Wallace Putkowski
Carbon Service Corp.
52 Fairview Drive
Lehighton, PA 18235-9081

Dear Mr. Putkowski:

Thank you for your January 21, 1991 letter to the Environmental Protection Agency (EPA) in which you question whether EPA's requirement for a 30 day prior notification to the implementing Agency is really necessary before closing an underground storage tank (UST). You point out that this can result in a delay in proceeding with construction that can prove costly to small operators.

Let me state for the record that EPA's regulatory requirements calling for prior notice of 30 days before closing an UST are simply intended to allow State or local agencies sufficient time to inform the operator of what closure requirements to follow and to perhaps enable arrangement of an on-site visit by a local inspector during closure. Our intent was not to automatically delay closure actions 30 days and thereby increase the construction and rent costs of small operators.

Our regulations do allow State programs to seek approval to substitute their own requirements for EPA's, including employing different approaches to this notification before closure requirement. You may want to direct your concern about the need for change or flexibility in this area to your State's UST program.

The States are the focal point for implementation of this program, and perhaps they already have an alternative procedure in place in your State. The key is that proper closure steps be followed and the implementing agency be given an opportunity to advise or oversee this work before it is undertaken. Thirty day prior notice appears to be reasonable from a national perspective, however, we fully intend to be flexible about allowing different State requirements on this issue, including State approaches that allow for shorter notification periods.

I suggest you contact the State UST program directly on this point:

Foster Diodato
PA Department of Environmental Services
Bureau of Water Quality Management
Non-Point Source and Storage Tanks Section

12th Floor Fulton Building P.O. Box 2063
Harrisburg, PA 17165-8761
(717) 657-4080

I hope the above information is helpful to you. We appreciate and encourage your spirit of cooperation that prompted you to write your letter.

sincerely,

David Ziegele Acting Director
Office of Underground Storage Tanks



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

1991

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

Honorable Bob McEwen
House of Representatives
Washington D.C. 20515

Dear Mr. McEwen:

Thank you for your letter of April 23, 1991, on behalf of your constituent, Mr. Bill Clausing, of Lucasville, Ohio. Mr. Clausing is apparently faced with the cost of removing and disposing of underground storage tanks from his property, which was formerly used as a gas station. The tanks have not been in use since 1976. You specifically asked whether any Federal assistance is available to assist Mr. Clausing in removing his tanks.

I am not aware of any Federal funds available through EPA to assist Mr. Clausing with the removal and disposal of his tanks. Such costs are typically borne by the tank owner or property owner, although some States have enacted assistance programs that can help their tank owners cover some of these expenses.

I cannot be certain from Mr. Clausing's letter whether his property is contaminated as a result of leaks from these tanks. In the event that it is contaminated, the State may be able to access the Environmental Protection Agency's (EPA) Leaking Underground Storage Tank (LUST) Trust Fund to assist in cleaning up the contamination. Each year, EPA awards money to States for their use in enforcement, oversight, and cleanup of releases from underground storage tanks. A State may, but is not required to, use the Trust Fund if the State determines that expenditures from the Fund are necessary to assure an effective corrective action. However, States are responsible for pursuing recovery of Trust Fund expenditures from liable tank owners. For more information about Ohio's administration of the LUST Trust Fund program, you should contact:

Ohio Department of Commerce
8895 East Main Street
Reynoldsburg, Ohio 43068
(614) 752-7938

The question of liability for tank removal at Mr. Clausing's property can be quite complex. The Federal statute -- and thus EPA's regulations -- defines the owner of a tank that was in use before November 1984 but never used after that date as any person who owned the tank immediately before the discontinuation of its use. Depending on the circumstances, it may be that Mr. Clausing would not be considered the tank owner under the Federal law.

States, however, are not constrained by the Federal definition of tank owner. They have the discretion to be more stringent than EPA in their State regulatory and enforcement efforts. Some States, for example, hold landowners as well as current and previous tank owners responsible for proper closure and removal of old tanks, as well as any contamination discovered. For more information on Ohio's position on these issues, You should contact the Ohio Department of Commerce.

I hope the information in this letter will be helpful to you in responding to your constituent, Please do not hesitate to contact me if I can be of any further assistance.

Sincerely yours,

David W. Ziegele, Acting Director
Office of Underground Storage Tanks

NOV 18 1992

Mr. David Wiley
Environmental Engineer
Office of Underground Storage Tanks
Office of Solid Waste and Emergency Response
Environmental Protection Agency
401 M Street, S.W. (OS-410WF)
Washington, D.C. 20460

Re: Temporary Closure of Underground Storage Tanks

Dear Mr. Wiley:

Our firm represents a large number of owners and operators of underground storage tanks regulated under the federal Underground Storage Tank Program set out at 40 C.F.R. Part 280. The purpose of this letter is to request written confirmation of the Environmental Protection Agency's ("EPA") position on corrosion protection upgrades for temporarily closed underground storage tanks. Based on our recent telephone discussion, it is my understanding that EPA interprets 40 C.F.R. § 280.70(c), relating to upgrading requirements for temporarily closed underground storage tanks, to require corrosion protection upgrading for existing tanks only after December 22, 1998. More specifically, it is my understanding that EPA interprets this provision such that an owner of an existing underground storage tank may temporarily close that tank in compliance with 40 C.F.R. § 270.70(c) for a period of greater than 12 months without adding the corrosion protection specified in § 280.21 until December 22, 1998.

As we discussed, the basis of this conclusion is that Section 280.70(c) requires tanks to either meet the performance standards for new UST systems or the upgrading requirements in Section 280.21 (for existing systems). The upgrading requirements for existing systems specified in Section 280.21, however, do not apply the corrosion protection requirements until December 1998. See 40 C.F.R. § 280.21(a).

In order to memorialize my understanding, I would request that you confirm in writing to me that existing tanks being temporarily dosed for greater than 12 months are in compliance with the corrosion protection upgrading requirements contained in section 280.70(c) if these corrosion protection upgrades. I look forward to your response. In the meantime, if you have any questions, please do not hesitate to contact me.

Very truly yours,

R. Steven Morton



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

FEB 22 1993

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

Mr. R. Steven Morton, Esquire
Brown McCarroll & Oaks Hartline
1400 Franklin Plaza
111 Congress Avenue
Austin, Texas 78701

Dear Mr. Morton:

This letter is in response to your inquiry of November 18, 1992, regarding the U.S. Environmental Protection Agency's upgrading requirements for Federally regulated underground storage tanks (USTs) that have been temporarily closed (copy enclosed). As you know, § 280.70(c) states that "when an UST system is temporarily closed for more than 12 months, owners and operators must permanently close the UST system if it does not meet either performance standards in § 280.20 for new UST systems or the upgrading requirements of § 230.21, except that spill and overfill equipment requirements do not have to be met."

The purpose of this letter is to communicate that the upgrading requirements of § 280.21, including specific requirements for tanks such as interior lining and/or cathodic protection, and including specific requirements for cathodic protection of piping, must be met at the time temporary closure exceeds 12 months.

You should be aware that UST systems temporarily closed for fewer than 12 months must meet the requirements of § 280.70(a) concerning operation and maintenance of corrosion protection and release detection, if applicable, and of § 280.70(b) concerning requirement for vent and other lines and equipment for systems temporarily closed for 3 months or more.

I hope that this information is helpful. If you have any further questions please contact David Wiley of my staff at 703-308-8877.

Sincerely,

David Ziegele, Director,
Office of Underground Storage Tanks

Enclosure

cc: UST/LUST Regional Program Managers
UST/LUST Regional Branch Chiefs
OUST Management Team
Shelley Fudge, OUST
Bill Lienesch, OUST (compendium)
David Wiley, OUST