



**UST Advisory Committee Meeting
Tank Management Section
Luken's Drive Office
November 14, 2018
Meeting Minutes**

I. Call to order

Alex Rittberg called to order the regular meeting of the UST Advisory Committee at 10:05 am on November 14, 2018 at 391 Lukens Drive, New Castle, Delaware.

II. Attendees

Annette Donnelly, Kathy McCaney, Fred Smith, Doyle Tiller, Bob Winterburn, Bill Logue, David Peterson, Sara Golladay, Eileen Butler, Alex Rittberg, William Kachel, Peter Rollo, Richard Negrete, Tom Ruszin, Mark Baker, Lori Spagnolo, Barbara Fawcett, Mike Moyer, Liz Wolfe, David Gilden, Amy Bryson, Ann Martin, Ross Elliott, Joesph Zay, Arron Siegel, Sandy Carl, David Lerner, Harry Johnson.

III. Introduction

Alex Rittberg gave introductory remarks, thanking the USTAC members for their participation, explaining the purpose of the USTAC, describing meeting governance and describing the updated promulgation schedule.

IV. Discussion with EPA/Compliance Dates

November 2018	Discuss draft of changes with USTAC
December 2018	Submit next draft to EPA
January 2019	EPA Review, Legal Review by DAG; Begin revision of SPA document
February 2019	Resolve any outstanding issues with EPA; Continue SPA document revision
March 2019	Additional legal review as needed
April 2019	Continue SPA document revision Public workshops
June 2019	Publication of Proposed Regulations in State Register
July 2019	Public hearing
September 2019	Secretary's Order Promulgating Regulations
October 2019	Submit SPA Package to EPA

The Delaware state program approval (SPA) was initiated in 1995 and has not been updated since then. Delaware is working to update the SPA in conjunction with updating regulations to either match

or exceed federal requirements. New federal regulations came into effect October 13, 2018 for those states that do not have state program approval. Delaware's target date for regulatory promulgation is set for October 2019.

V. Summary of Regulatory Changes

a) Operator Training

Operator training will now require a passing grade of 80%. Classes are now being conducted by DNREC staff. New re-certification requirements call for Class A and Class B Operators to be re-certified every 3 years. Thirty day routine inspections will now be required to be conducted by Class A or Class B certified operators.

Discussion: Mr. Baker raised the issue that for owners who hire a Delaware certified contractor to perform the 30-day routine inspection, it would mean that the contractor would be required to obtain Class A/B Operator certification via the State training classes.

Action Item: DNREC-TMS will give this matter further consideration.

b) Financial Responsibility

Insurance policy exclusions- EPA has specified that if either voluntary UST System removals or self-insured retentions are used as financial responsibility mechanisms for the UST System, the mechanism will not be in compliance with the requirements of the law.

Additionally, if insurance is used, Delaware will:

- require an annual submission of the insurance policy by the Owner/Operator
- require notification by the insurer of termination or non-renewal

Lack of financial responsibility is also cause for dispensing/delivery prohibition.

c) Out of Service vs Empty

Requirement for Out of Service will now require a site assessment when UST system is Out of Service for twelve (12) months however, there is no longer a requirement to render the UST System empty.

When a UST System is Empty a site assessment, removal or closure in place within three (3) months will now be required.

Discussion: This change in Empty status is to assist owners/operators in complying with insurance policies (should that be the financial mechanism used to comply with the law). The thought is that enough time should be given to ensure a site assessment can be completed and if necessary the owner/operator can apply for insurance coverage should a release have occurred.

Ms. McCaney asked if Delaware will follow the RP-1700 process of UST emptying and closure procedures?

Action Item: DNREC-TMS will review a draft of RP-1700 and then respond to the question.

d) Delivery and Dispensing Prohibition

TMS reviewed the specific criteria for when a delivery and dispensing prohibition is warranted: Only use prohibitions with imminent threat; lack of equipment; out of compliance with release investigation requirements; or out of compliance with financial responsibly.

Discussion: Current regulation described when inspection has authority to stop delivery but continue to dispense current product in tank. In certain instances the Department has authority to now stop dispensing until regulatory compliance is reached.

e) SPA related changes

TMS reviewed the areas of the regulations that were modified to ensure State Program Approval. They include a section on Compatibility, wording changes regarding alternative approval procedures, annual interstitial monitoring if criteria are met, and a date for overfill prevention inspections to start prior to October 13, 2021.

Discussion:

Ms. Carl: Is Delaware thinking of approving low level testing of sumps or dry sump testing?

Response Delaware does not support low level testing or dry testing for sump pumps. The concern is that if such testing occurs, there may be other mechanisms in the sump that may fail and will only be observed when the sump is full.

Mr. Logue: What happens when overfill prevention is over 95%? What if the manufacturer's recommendation is to be located at the 96% of tank?

Action item: DNREC-TMS will have internal discussion on this matter prior to issuing a response to this question.

Mr. Baker: Was it DNREC-TMS's intent with regards to the amendments to the alternative approval section to prohibit the installation of future loop systems?

Response: No. The intent of the amendment to the alternate approval section was to satisfy an EPA concern about Delaware's regulations being less stringent than the federal regulations, and not to prohibit additional installations of the Loop System.

Action Item: DNREC-TMS will give this matter more consideration.

Ms. Carl: Tank sumps and repair work with contractor- Is Delaware willing to work with the constraints associated with the 30 day repair timeframe.

Response: Yes, the owner/operator will need to show proof of a signed contract and will then be considered in compliance with the regulations.

Mr. Baker: I'm concerned that there is no more USTAC meetings and the abbreviated timeline to discuss updates/changes.

Response: Members of the USTAC will have opportunity to further comment and follow up discussions are likely, however, the Department is also constrained to comply with the federal timeline and the Department desires to provide as much lead time to owners/operators to ensure their compliance with the State regulations.

Written comments: Please send written comments to
DNREC_USTRegulations@state.de.us by November 30, 2018.