November 14, 2018

Delaware USTAC

Purpose of USTAC

- The purpose of the Underground Storage Tank Advisory Committee is to provide feedback and assist the Department in developing changes to the Delaware Underground Storage Tank Regulations and improving Delaware's Underground Storage Tank Program.

- Members are expected to share their perspective and technical expertise to assist DNREC in these efforts.

Meeting Governance

Chair: Alex Rittberg and Co-Chair Eileen Butler (Primary Facilitators) Focuses on the process – the how of the session. Preserves the integrity and disciplined use of the process. Guides the process without directing it. Invites people to attend the meeting and designates them as committee members.

Committee Members Share responsibility for a successful group session with the primary facilitator.

Note Taker: Melina Lounsbury Takes detailed notes of the meeting for distribution later.

Timekeeper: Sara Golladay Monitors how long the group is taking to accomplish its tasks. Provides regular updates to keep group members moving forward.

Meeting Governance

USTTAC Meeting Ground Rules

- Start and End on Time
- No side conversations
- Respect the agenda
- Keep an open mind
- Respect differences of opinion
- No personal attacks
- Be positive
- Speak one at a time and give everyone a chance to speak
- Be honest and have trust
- Ask questions
- Help facilitator, scribe and note taker capture ideas accurately.
- State a purpose when introducing each new topic.
- Decisions by consensus with motions and votes
- Share responsibility for team's progress

Agenda

• Introductions	10:00 - 10:05
• Discussions with EPA/Compliance Dates	10:05 - 10:15
• Regulation Promulgation Schedule	10:15 - 10:30
• Summary of Regulatory Changes	10:30 - 11:45
• Public Comments	11:45 - 11:55
• Next Steps	11:55 - 12:00

EPA-DNREC Schedule

- Non-SPA States and Territories vs SPA States

  New UST requirements start:

  - October 13, 2018 for Non-SPA States and Territories
  - October 13, 2021 for SPA States

- Delaware's schedule

  Promulgation:

  - October 2019

  Implementation:

  - October 13, 2021

Promulgation Schedule

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

Promulgation Schedule (Cont.)

March 2019	Continue SPA document revision Public workshops
April 2019	Final SPA document update
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

What has happened since May?

Regulatory changes

- Changes throughout regulations for clarity and consistency
  - Sections A, B, C, D, E, G
- Operator Training
- Financial Responsibility and Insurance; changes to assist Owners/Operators
  - Out of Service and Empty requirements
- Delivery and Dispensing Prohibition

Operator Training

- Require passing grade of 80%
- Re-certification requirement – every three (3) years as per Part A Section 10.1.12
- 30 day inspection by Class A or Class B certified Operator

Financial Responsibility

- Insurance policy exclusions – (EPA memo) Part F 2.2.4 and 2.2.5
  - Voluntary UST System removals
  - Self-insured retentions
- Termination or nonrenewal notification to the Department
  - By insured – Part F 2.14.1.1.4 (not a new requirement)
  - By insurer – Part F 2.14.1.1.5

Financial Responsibility

- Installation requirements – Part A 4.6.11 – complete insurance policy required
- Record keeping Part A 5.1.4.14 – lifetime of Ownership
- Cause for Dispensing/Delivery Prohibition – Part A 9.2.1.4
- Financial Responsibility Requirements – Part F 1.1.8 annual submission

Out of Service vs Empty

Requirements for Out of Service:

- Operation/Maintenance of corrosion protection
- Operation/Maintenance of Release Detection
- UST System testing
- Routine inspection
- Financial Responsibility

Site Assessment when UST System is Out Of Service for twelve (12) months; no longer required to render the UST System empty

Requirements for Empty UST Systems:

- Vent pipes open and functioning
- Cap and secure all other Pipes, pumps, manways, and Ancillary Equipment
- Continue corrosion protection until UST System is Removed or Closed In Place

Within three (3) months of rendering UST System Empty:

Site Assessment, or Removal, or a Closure In Place is required

Out Of Service vs Empty

Definition of Out Of Service:

Is not in use – no Regulated Substance added or withdrawn from the UST System

Is ***intended*** to be put back In Service

Definition of Empty:

All Regulated Substances have been removed from the UST System using commonly employed practices so that no more than one inch (1) or 2.5 centimeters of residue, or three tenths of one percent (0.3%) by weight of the total capacity of the UST System, remains in the UST System.

Delivery and Dispensing Prohibition

Part A Section 9

Added dispensing prohibition to potential enforcement action when certain conditions exist:

1. Imminent threat
2. Lack of Spill/overfill prevention, Release Detection, Corrosion Protection
3. Owner/Operator out of compliance with Indicated Release investigation
4. Owner/Operator out of compliance with financial responsibility requirements

Delivery and Dispensing Prohibition

"Imminent Threat" means an actual Release or a potential for a Release which requires action to prevent or mitigate damage to the environment or endangerment to public health or welfare.

Dispensing prohibition tag shall be affixed to the dispenser in conjunction with delivery prohibition tag affixed to the fill pipe

SPA related changes

Definitions:

- Day
- Regulated Substance – 0.1% is not same as *de minimis* (so minor as to merit disregard)

Compatibility – new section Part A Section 13.0

Alternative Approval Procedures– new section Part A Section 6.0

Interstitial monitoring – required for new tanks and piping

- Annual Interstitial monitoring – if criteria are met

Date for Overfill prevention – Oct. 13, 2021

- Overfill prevention – ball valve

Day

means a calendar Day; however, when used to determine when a document is due and the Day falls on the weekend or a holiday, the document may be submitted on the first working Day after the weekend or holiday.

Regulated Substance

means a liquid that contains:

(a) Any substance defined in Section 101 (14) of the Comprehensive Environmental Response, Compensation and Liability act (CERCLA) of 1980; but not including any substance regulated as a hazardous waste under RCRA subtitle C; or

(b) Any volume of a carcinogen as defined by EPA in the Integrated Risk Information System (IRIS) April 2002 and as updated; or

(e) A substance determined by the Secretary through regulation to present a risk to public health or welfare or the environment if released into the environment.

Compatibility

Owners and Operators shall use an UST System made of or lined with materials that are Compatible with the Regulated Substance Containing Ethanol and Biodiesel stored in the UST System.

Compatibility shall be demonstrated by one of the following:

- certification by a nationally recognized independent testing laboratory
- equipment or component manufacturer's approval
- other method no less protective of human health and the environment

Alternative Approval

Alternative approvals will only be considered when they are consistent with the *no less stringent* requirements of Subtitle I, Section 9004 of the Resource Conservation and Recovery Act of 1976.

The alternative procedure or technology must meet or exceed the requirements found in these Regulations.

Interstitial Monitoring

- Submersible turbine pump Containment Sumps annual inspection if:
  - Equipped with continuous interstitial monitoring
  - Vent and vapor return Piping slope back to Tank 1/8” per foot

Overfill Prevention

- Vent line flow restrictors (ball float valves) shall not be installed for overfill prevention *after the Effective Date of these Regulations*.
- Existing vent line flow restrictors shall be removed not later than three (3) years *after the Effective Date of these Regulations*

  unless the following condition exists:

the overfill prevention equipment automatically achieves partial shut off of flow into the UST when the UST is eighty five percent (85%) full and complete shut off of flow at eighty eight percent (88%) full.

Overfill Prevention

Owners and Operators shall ensure that overfill prevention equipment is inspected a minimum of *once every three (3) years*. The first inspection shall occur prior to October 13, 2021. At a minimum, the inspection shall ensure that overfill prevention equipment is functioning in accordance with manufacturer's specifications and shall activate at the correct level.

Written Comments on the Draft Regulations Can be sent to

DNREC_USTRegulations@state.de.us

Public Comment