Ownership and Financial Responsibility for UST Systems in North Carolina

NCDENR
Division of Waste Management
Underground Storage Tank Section

Overview

- Ownership Requirements
- Financial Responsibility

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- Ownership Requirements
  - UST system registration
  - UST system operating fees
  - Compliance questionnaire
  - Ownership changes
- Financial Responsibility

What is an "Owner"?

If system was:

- In use on **November 8, 1984**
- Brought into use after **November 8, 1984**

Then the owner is any person/entity who owns an UST system for storage or dispensing of regulated substances.

UST System Registration

- Regulated and/or commercial UST systems must be registered with UST Section
  - Submit UST-8 Form to Permits and Inspections Branch
  - UST-8 form must be submitted each time registration information changes:
    - Ownership
    - Equipment
    - Temporary closure
      - Brochure available

UST System Registration

- Regulated and/or commercial UST systems
  - USTs used for storing/selling petroleum products
  - Heating oil USTs > 1,100 gal
  - Farm or residential USTs > 1,100 gal
  - Emergency generator USTs
  - Hydraulic lift USTs
  - Oil-water separator USTs
  - Hazardous substance USTs > 110 gal

UST System Operating Fees

- $420 per UST annually
  - Even if in temporary closure
- Must be paid to receive annual operating permit
  - Fuel may not be placed into USTs without an operating permit
- Due even if facility on permit hold
  - Compliance issues, etc.
- Nonpayment could result in ineligibility for Trust Fund

UST System Registration

- Commercial UST systems
  - USTs used for storing/selling petroleum products
  - Heating oil USTs > 1,100 gal
  - Farm or residential USTs > 1,100 gal
  - Emergency generator USTs
  - Hydraulic lift USTs
  - Oil-water separator USTs

Non-Commercial:
Hazardous substance USTs > 110 gal

Compliance Questionnaire

- Four questions located on the back of the invoice for the annual tank fees
- Must completed each year

Ownership Changes

- Notify UST Section when regulated and/or commercial UST system ownership changes
- 30 days to complete paperwork

Ownership Changes

- New owner/operator must apply for new permit
- Permit issued to previous owner/operator no longer valid even if annual fees paid through end of permit period

Ownership Changes

- Paperwork must be completed
  - UST-15 Form
    - Must include supporting documentation
  - UST-8 Form
    - Completed by new owner
    - Submitted with operating fees due
    - Includes FR information
  - Seller/buyer names must be consistent throughout ALL forms and supporting documentation

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- Ownership requirements
- Financial Responsibility
  - Background information
  - State Trust Fund
  - FR Mechanisms

Financial Responsibility

- Based on federal regulations
- Tank owner **or** operator decide which one will meet FR requirements
  - Laws: NCGS Chapter 143, Article 21A, Part 2A, Section 143-215.94H
  - Rules: Title 15A, Subchapter 2O of the North Carolina Administrative Code

Financial Responsibility

- Rules effective **July 1, 1992**.
- Part of permitting process as of 2004.

Financial Responsibility

- Almost all UST owners in North Carolina must be able to meet FR requirements
  - Exempt: Federal and state governments
  - Not exempt: Local government agencies
    - Public school systems are local government agencies

Financial Responsibility

- If you own or operate a **regulated** UST, FR regulations require you to have money available for:
  - Cleanup
  - Third-party claims
  - Bodily injury
  - Property damage

State Trust Fund

- State Trust Fund provides reimbursement:
  - Up to $1.5 million for cleanup and third-party liability costs
    - 20% co-payment for costs greater than $1 million

State Trust Fund

- Deductibles paid first before reimbursement for the rest of the cost
  - $20,000 deductible for clean-up
  - $100,000 deductible for third-party liability

NOTE: These deductibles apply if eligibility requirements met

- Eligibility is determined by the State Trust Fund Branch based on compliance and upgrade requirements for UST systems

Financial Responsibility

- Having Financial Responsibility means having access to funds that can pay $120,000 in deductibles plus a $600 per tank "scaling factor"
  - Example in green booklet: bottom of page 2
  - Blank worksheet: Appendix A

  - Manifolded USTs are counted separately
  - Compartment USTs are counted as one UST

Financial Responsibility

- You prove you have FR using one of seven mechanisms:
  - Self-insurance
  - Corporate guarantee
  - Insurance and risk retention group
  - Surety bond
  - Letter of credit
  - Trust fund
  - Insurance pool

(NOTE: Local governments have additional mechanisms beyond the seven)

FR Mechanisms

- Self-Insurance
  - Corporation has financial strength to absorb costs of release
  - Pass financial test: Appendix B, page 9-10, includes example and blank worksheet
  - Send to the UST Section:
    - Compilation report by independent CPA
    - NC Cert. Form (available on our website)
    - Chief Financial Officer Letter (available on our website)

FR Mechanisms

- Insurance and Risk Retention Group
  - "Pollution Insurance"; liability insurance policy
  - Find suitable insurance company, monthly premium
  - Send to the UST Section:
    - Certificate of insurance or endorsement documentation from insurance company
    - NC Cert. Form (available on our website)
    - Appendix E information

FR Mechanisms

- Letter of Credit
  - Agreement between UST owner and financial institution (bank); establishes trust fund that DENR may access in event of release
  - Find suitable financial institution, fee
  - Send to the UST Section:
    - NC Cert. Form (available on our website)
    - Appendix G information

FR Mechanisms

- Local governments have four (4) additional mechanisms they may use:
  - Bond rating test
  - Financial test
  - Guarantee
  - Fund

FR Mechanisms

- Local governments
  - Two most common mechanisms:
    - Local government bond rating test
      - Similar to self-insurance mechanism
      - Use Appendix I
    - Local government financial test
      - Also similar to self-insurance mechanism
      - Use Appendix J

FR Mechanisms

- How to choose which mechanism is practical for you
  - How much money do you <u>have</u> available?
  - How much money do you <u>need</u> available?

Financial Responsibility

- You must keep FR documents at your UST site or place of business.
- FR must be maintained for systems in temporary closure
- FR records need to be maintained until the UST is permanently closed and any corrective action is completed.

Federal Government FR Information

- List of insurance providers at http://www.epa.gov/oust/pubs/inslist.htm
- *Financial Responsibility For Underground Storage Tanks: A Reference Manual* (EPA 510-B-00-003)
- *Dollars And Sense: Financial Responsibility Requirements For Underground Storage Tanks* (EPA 510-K-95-004)
- The laws are in Subtitle I of the Resource Conservation and Recovery Act (RCRA)
- The regulations are in the Code of Federal Regulations Title 40, Chapter 1, Subchapter I, Part 280, Subpart H

Any Questions?

Division of Waste Management
Underground Storage Tank Section
Permits and Registration Group
(919) 733-8486
www.wastenotnc.org/ust/ust_main.html