Underground Storage Tank Compliance Act of 2005

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US EPA – New England

EBCNE
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History Of The Federal Underground Storage Tank (UST) Program

- In 1984, President Reagan signed into law Subtitle I of the Solid Waste Disposal Act, requiring EPA to establish a regulatory program for underground storage tanks;

- In 1986, Congress and the President created the Leaking Underground Storage Tank (LUST) Trust Fund to pay for cleanups;
History Of The Federal Underground Storage Tank (UST) Program

• In 1988, EPA rules were promulgated and phased in leak detection and tank replacement requirements;

• Financial responsibility of EPA’s 1988 rules were phased in 1989-90; most states created a state fund to operate in lieu of insurance, which was generally unavailable;
History Of The Federal Underground Storage Tank (UST) Program

- The 1988 rules mandated that all substandard USTs be upgraded or removed from the ground by December 22, 1998;
- Between 1988 and 1998, UST facilities dropped from ~40,000 to ~14,000;
- By 1995, all New England states had state program approval.
### Region I UST (Prevention) Inspection Frequencies September 2005

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<tbody>
<tr>
<td>CT</td>
<td>11,871</td>
<td>4,633</td>
<td>195</td>
<td>23.7</td>
<td>4.2%</td>
</tr>
<tr>
<td>ME[5]</td>
<td>3,359</td>
<td>1,644</td>
<td>391</td>
<td>4.2</td>
<td>23%</td>
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<tr>
<td>MA</td>
<td>11,368</td>
<td>4,766</td>
<td>227</td>
<td>20.9</td>
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<tr>
<td>NH</td>
<td>2,935</td>
<td>1,294</td>
<td>544</td>
<td>2.3</td>
<td>42.0%</td>
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<tr>
<td>RI</td>
<td>1,691</td>
<td>675</td>
<td>87</td>
<td>7.7</td>
<td>12.8%</td>
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<tr>
<td>VT</td>
<td>3,011</td>
<td>1,129</td>
<td>63</td>
<td>17.9</td>
<td>5.5%</td>
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<tr>
<td>Total</td>
<td>34,235</td>
<td>14,141</td>
<td>1,507</td>
<td>9.3</td>
<td>10.6%</td>
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</tbody>
</table>

[1]. Facilities numbers are actual numbers reported by states.

[2]. Inspections conducted 10/1/04 through 9/30/05 (rolling 12 months)

[3]. Facilities divided by inspections. Note, this leads to weighted inspection frequencies for total.

[4]. Inspections divided by facilities. Note, this leads to weighted % inspected numbers for total.

[5]. These represent state inspections. ME also requires annual third party inspections.
Inspection Findings

Get those sump covers off…!!!
Inspection Findings

Improper liquid sensor setting
Inspection Findings

Sumps should be clean and dry, note raised sensor
Inspection Findings...

Bending from growth

Flexible Piping Issues

Cracking
Growth

Alligatoring

More Inspection Findings

Splitting
...More Findings

“Short sticking” fuel fill riser
... And More Findings

Full spill bucket
“Life Is Like an UST Inspection…

You Never Know What You’re Gonna Get!”

Forest Gump, Early UST Inspector
New USTCA Legislation


• Subtitle B of Title XV established the Underground Storage Tank Compliance Act of 2005 (USTCA)

• USTCA substantially changes the Underground Storage Tank Program for EPA and States.
Structure of USTCA

- USTCA imposes requirements on EPA, other federal agencies, and any state receiving funding under this Subtitle I of RCRA.

- EPA has historically negotiated UST grants and LUST cooperative agreements with all States.

- Future funding depends on meeting program implementation deadlines.
Major Provisions of USTCA

LUST (Leak) Program

• Authorization for Appropriation

• Expansion of Eligible Uses of LUST Trust Fund

• Cost Recovery

• Cleanup of Fuel Oxygenates
Major Provisions of USTCA

(Continued)

UST (Leak Prevention) Program

- Mandatory inspections
- Operator Training
- Delivery Prohibition
- Waiver of Sovereign Immunity
- Compliance Reports/Strategies
  - Tanks in Indian Country
  - Federally-Owned Tanks
  - Government-Owned Tanks
- Secondary Containment -or- Installer/Manufacturer Financial Responsibility
Deadlines

• 12 months - 8/2006
  – EPA
    • Delivery Prohibition Guidelines
    • Tribal Strategy
    • Grant Guidance
  – Federal Facilities
    • Report to Congress

• 18 months – 2/2007
  – States
    • Secondary Containment -or- FR Requirements
Deadlines

• 24 months – 8/2007
  – EPA
    • Tribal Report to Congress
    • Operator Training Guidance
    • Initial Inspections (those not inspected since 12/98)
  – States
    • Delivery Prohibition Implementation
    • Initial Inspections (if applicable)
    • Report on Government-Owned Tanks
Deadlines

• 36 months – 8/2008
  – States
    • First Round of Inspections (once every three years)

• 48 months – 8/2009
  – EPA
    • Report on Alternative Inspection Programs
  – States
    • Operator Training Requirements
Resource Issues

• FYO6
  – Budget provides
    • $73 million LUST
    • $12 million STAG
  – Budget does not address the new responsibilities or eligible uses
  – EPA is still evaluating impact on FY06 grants

• FY07
  – FY07 grants will need to reflect new authorities and commitments
  – EPA is reviewing Energy Policy Act resource impacts
Congress Increased LUST Authorization From $85,000,000 To $605,000,000 Annually

<table>
<thead>
<tr>
<th>Funding Source: 9014(2)(A)</th>
<th>$200,000,000</th>
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<td>LUST Trust Fund – Administrative, Enforcement, Cleanup</td>
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<th>Funding Source: 9014(2)(b)</th>
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<tbody>
<tr>
<td>MTBE Remediation – Determine Eligible Uses Of LUST Funds &amp; Oversee Cleanup Of Eligible Sites</td>
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<th>Funding Source: 9014(2)(c)</th>
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<tr>
<td>Inspections - Develop Cooperative Agreement Guidelines; Determine Sites To Be Inspected</td>
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<tr>
<td>State Funds – Monitor States To Determine Whether Funds Are Diverted; Monitor Solvency Of Funds And, If Necessary Remove Approval Of State Fund To Serve As Financial Responsibility Mechanism</td>
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<tr>
<td>Additional Measures To Protect Groundwater – Monitor &amp; Enforce Compliance With Secondary Containment Or Financial Responsibility Regulations</td>
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<tr>
<th>Funding Source: 9014(2)(d)</th>
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<tr>
<td>Operator Training - Develop Guidelines Specifying Training For UST Operators</td>
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<td>Delivery Prohibition – Develop Guidance; Enforce Provisions</td>
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<td>Compliance Strategies &amp; Reports – Determine Compliance Status Of Fed/State/Local Owned USTs; Develop &amp; Implement Compliance &amp; Cleanup Strategy For UST Indian Country; Submit Reports To Congress</td>
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<tr>
<td>Public Record – Require States To Maintain For Public Access UST Compliance &amp; UST System Performance Data</td>
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<tr>
<th>Funding Source: 9014(1)</th>
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<tr>
<td>Inspections - Traditional UST Enforcement Supporting Subtitle I</td>
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Total Potential Funding: $605,000,000
In Summary

• Meeting USTCA’s new requirements and deadlines depends on both EPA and States;
• There is not much time, with the first deadlines only 4 months away;
• To meet deadlines EPA and States must make implementation of the new provisions a priority;
• President’s FY07 budget released early February has $26 million increase for state inspection programs. Congress will decide FY07 budget amounts in September – October.