

## New Inspection Contractor

It's that time of year – inspections of UST and AST facilities will begin in September and the names, faces and phone numbers of the inspectors will be different this year.

The Department of Natural Resources, (DNR), and the Petroleum Storage Tank Insurance Fund, (PSTIF), have entered into a new contract with US Calibrating, Inc. to conduct inspections of UST and AST facilities in Missouri. Though the contractor is new, the process will be very similar to that used in recent years.

If your tank system is to be inspected, you will receive a letter notifying you of that fact approximately two weeks in advance of the inspection. When the inspector arrives, he will identify himself as a person working for the DNR and the PSTIF, and will have written credentials verifying that.

After the inspection, you will receive a written inspection report from the contractor, identifying any compliance violations and/or any "housekeeping" issues noted by the inspector. The letter will give you a deadline by which you must address the compliance issues.

After that deadline, the inspection report and photos, along with your response, will be sent to both the DNR and the PSTIF, who will follow up if there are outstanding compliance issues.

Generally, UST systems and PSTIF-insured AST systems are inspected once every three years. These inspections are in addition to the semi-annual inspections conducted by Missouri's Division of Weights and Measures.

Anyone with a question about the inspection process may contact Dorcee Lauen at 800-765-4041, ext 6, or Heather Peters at 573-522-5665.

## UST Operating Rules

Both the U.S. EPA and the Missouri DNR are considering changes to the rules governing operation of underground storage tanks.

The PSTIF Advisory Committee reviewed and discussed a list of possible changes at its meeting in June and plans to meet again this fall to review actual draft amendments to the rules. This list is available at <http://snipurl.com/pstif027>.

Meanwhile, the U.S. EPA has also released a list of rule changes it is considering. That list may be viewed at <http://www.epa.gov> under "Federal Info."

Though we cannot predict what changes will be finalized in rules, it is a safe bet that UST owners and operators will have to learn and comply with some new requirements in the next 2-3 years. The PSTIF will do its best to help you do that – stay tuned!

## FR Enforcement

The Missouri Attorney General's Office, (AGO), gave a presentation to the PSTIF Board on July 28, outlining past successes and ongoing efforts to assure that all UST owners/operators comply with the requirement to have a "financial responsibility (FR) mechanism."

The AGO, DNR and PSTIF collaborate to assure that the few UST owners/operators who are not diligent about complying with the rules are not allowed to compete unfairly with the significant majority of owners who work hard and spend money to stay in compliance.

At the time of the meeting, there were approximately 80 UST facilities operating without insurance, out of more than 3,000 locations operating statewide. The DNR and AGO work to make those owners/operators comply with state rules, collect fines and penalties for past non-compliance and, in a few severe cases, file litigation to force compliance or closure of the business.

## Consultants: Know Your AULs

As risk-based corrective action requirements have evolved in recent years, a misconception has arisen among many of the environmental consultants who do both tank site cleanups and cleanups governed by hazardous waste laws/rules or overseen by the DNR's Brownfields and Voluntary Cleanup staff. The misconception relates to a relatively new real estate instrument authorized by a law passed in the Missouri Legislature in 2008.

The new law creates a special type of restrictive covenant that may be placed on the title to a property, called an "environmental covenant." An environmental covenant may grant certain perpetual property rights to the Department of Natural Resources, (DNR), and is binding on all successive property owners. State law also requires that a property on which an environmental covenant is imposed must be included on a list of "sites contaminated with hazardous substances" maintained by the DNR. (more)



However, this 2008 state law specifically exempts tank sites. This means that the standard environmental covenant used on hazardous waste sites is not a useful "Activity and Use Limitation," (AUL), for petroleum tank site cleanups, and the PSTIF will not pay for work done to prepare an environmental covenant.

Instead, a simpler and more traditional form of restrictive covenant can be used for a tank site if, for example, petroleum impact remains in the groundwater at levels above drinking water standards and there is a reasonable likelihood that a future property owner might install a drinking water well into that water-bearing zone.

Consultants should avoid recommending use of the environmental covenant to their tank site clients and instead may use a simpler, more traditional type of restrictive covenant. A suggested format may be found at <http://www.pstif.org>.

## Monitoring Well Rules

The Well Installation Board, (WIB), recently voted to publish proposed amendments to its rules governing the installation, construction and plugging of "monitoring wells."

The WIB uses the term "monitoring well" to include any hole in the ground that is ten feet or deeper, including "dry holes" like push probe holes, soil borings and soil gas monitoring wells. The proposed amendments –

- a) Retain the provision that anything less than 10' is an unregulated hole/well and is not subject to the rules;
- b) Make it clearer that soil borings, geoprobe holes and soil vapor wells, (or "gas migration wells," the term used in the rules), are regulated if they are 10' or deeper;
- c) Eliminate the need for consultants to get a variance for every well screened to collect shallow water samples; and

- d) Allow a driller or consultant to file one registration form and pay one fee for all the temporary wells, (i.e., soil borings, geoprobe holes, piezometers, etc., that exist for less than 30 days), at a site.

The proposed rules will likely appear in the Missouri Register for public comment on October 2, 2010 but you can review them now at <http://snipurl.com/pstif028>.

## C.P. Tester Training

The Steel Tank Institute is offering its Cathodic Protection Testing Training Course on October 19-20 in Kansas City, Missouri. The course offers a practical approach for those wanting to become c.p. testers and for those who simply want to understand c.p. systems and readings. The early registration deadline is September 13.

Information is available at <http://www.steeltank.com> under "Education/Events."



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