

## **Federal Facilities and Underground Storage Tanks: Federal Facility Responsibilities, EPA Oversight, and FEMA's Comprehensive UST Management Program**

Because leaking underground storage tanks on federal lands can pose significant threats to groundwater quality in the United States, the U.S. Environmental Protection Agency has spent considerable effort inspecting, enforcing and assisting federal agencies in complying with underground storage tank (UST) laws and addressing problems which may harm human health and the environment.

Groundwater contamination from leaking USTs can be a serious problem since groundwater is the source of drinking water for approximately 50 percent of the nation's population and 99 percent of the population in rural areas. Because federal facilities with USTs occupy significant portions of land in urban, suburban and rural settings, the U.S. government has a responsibility to ensure its tanks are used and maintained in a manner which does not damage the environment, or pose a risk to the community living on or near the facility.

This article looks briefly at federal facility requirements under the UST program, and highlights some recent EPA enforcement and oversight activities in the federal sector.

The Energy Policy Act of 2005 (the Act) and the Resource Conservation and Recovery Act set out the regulatory requirements federal facilities and others must follow to minimize and prevent risks posed by improperly managed USTs, and leaking USTs. Federal facilities, like private entities, must follow specific standards and requirements for UST design, construction, installation, and notification, operation and maintenance, as well as release detection and recordkeeping. In the event of a release, UST owners must also report, investigate, and take appropriate corrective action. If a tank is not being used, or is taken out of service, federal facilities must follow specific criteria and protocol for tank closure.

The Act also requires federal agencies to improve the environmental management of their USTs. In order to improve tank management, federal agencies were required to report inventory and compliance information to the U.S. EPA and state regulatory agencies by August 2007. Providing this information was challenging for several federal agencies, including the Federal Emergency Management Agency ("FEMA"), which is part of the Department of Homeland Security.

FEMA acquired close to 200 USTs from the Federal Communications Corporation and other predecessor agencies when it assumed control of the U.S. Emergency Broadcast System (EBS) in the early 1990s. The EBS had been established in 1963 as an "expeditious method of communicating with the American public in the event of war, threat of war, or grave national crisis." These tanks were around the country and associated with transmission towers, sometimes in remote locations, and many were no longer in use.

At the time FEMA was required to report and inventory UST compliance information, it had incomplete information on the exact number of tanks, their condition, or whether they were still

operating. This became evident when in 2008, EPA issued FEMA a Request for Information (“RFI”), requiring it to submit documentation on these USTs. Of greater concern was that FEMA was unaware of whether any of these tanks were corroded, leaking or posed other risks to human health or the environment.

Under EPA enforcement oversight, FEMA implemented a multi-year, \$7.5 million UST tank compliance and management initiative. As part of this effort, FEMA created a new office to organize and oversee the information it gathered, as well as the field work required, to bring its tanks into compliance with UST regulations and assess and cure any environmental hazards or risks. Work was overseen and assisted by a committee of FEMA senior managers from throughout the agency, including representatives from FEMA’s legal, finance, acquisitions, facilities, and external affairs offices. As part of this process, a risk-ranking analysis of the newly inventoried tanks determined how to allocate limited resources appropriately and ensure human health and the environment were safe.

Priority was given to high risk tanks, like leaking or corroded tanks. In some situations, tanks were removed and contaminated soil was cleaned up to ensure groundwater and drinking water supplies would not be harmed. Operational USTs still receiving and storing fuel were the next priority so that corrosion, leak protection and other safeguards were installed and future release risks were minimized. Remaining tanks were grouped by estimated risk, or those former USTs for which insufficient documentation of closure was available.

EPA required and FEMA provided quarterly updates on its tank compliance and remediation efforts. Based on this information, EPA required FEMA to conduct additional field work on former tank locations and current operational tanks which may have posed risks to public health and/or to the environment. If problems were found, FEMA remedied them.

To accomplish this effort, FEMA aggregated financial resources from various sources within the agency. Interagency agreements with the U.S. Army Corps of Engineers and the U.S. Coast Guard were established to provide FEMA with governmental technical support for managing its UST’s. At the request of FEMA, Congress also provided additional funds in their FY 2009 appropriations. FEMA used these funds to hire consultants and issue task orders for assessments, repairs, removals, investigations of former tanks, and quality assurance of the entire program.

Over the course of a few years, FEMA validated its tank inventory, assessed the compliance of each tank with environmental regulations, disposed of tanks no longer needed or which could not be repaired, remediated releases, and provided training to appropriate staff. To ensure future compliance, FEMA also implemented a monitoring program which will enable it to manage and operate its UST program in a safe and environmentally sound manner in the years to come.

Vigilant and sustained compliance with tank requirements is an important responsibility for federal facilities which own, operate and otherwise maintain tanks. When tanks are not well maintained, or are out of compliance with the Energy Policy Act or RCRA requirements, serious environmental and human health problems for a community may result. EPA and state regulators will continue overseeing federal tank compliance and maintenance in the coming years, and

facilities should expect an EPA or state inspection at least once every three years, as mandated by the Energy Policy Act.

For further information about federal facility regulatory responsibilities under the Energy Policy Act of 2005 or RCRA/UST, please visit: <http://www.fedcenter.gov/enforcement/ust> and <http://www.epa.gov/oust/overview.htm>

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