



Petroleum Transportation & Storage Association

Weekly Update

*Regulatory News and Compliance Information for the Petroleum Transportation and Storage Industry
Washington, D.C. Friday, June 10, 2005.*

1. EPA RELEASES NEW UST DATA ON CLEAN-UPS, RELEASES AND COMPLIANCE:

The Environmental Protection Agency's Office of Underground Storage Tanks (OUST) continues to make slow progress in cleaning up the huge backlog of contaminated UST sites according to a new report issued this week. The *Fiscal Year 2005 Semi-Annual Mid-Year Activity Report* compiles UST data collected from the 10 EPA Regions. The EPA report found that 6,181 UST cleanups were performed over the six-month period beginning 11/04. However, the number of actual cleanups represents only 43 percent compliance with OUST's clean-up goal of 14,500 sites set under the Government Performance and Results Act which directs federal agencies to develop strategic plans and tools to measure the effectiveness of their programs. According to the report:

- Since, 11/04 cleanup backlogs were reduced from 129,828 USTs to 125, 221.
- There are currently 660,274 active USTs nationwide.
- Since 1984, 1.6 million tanks have closed, 448,807 confirmed releases were reported and 416,246 cleanups initiated with 323,586 cleanups completed.
- The overall compliance rate with federal UST regulations is 78 percent for release prevention, 73 percent for leak detection, and 65 percent for combined compliance.
- Texas has the largest number of active underground storage tanks, 57,532. California was second with 39,123 tanks, followed by Florida with 31,773, Georgia with 30,581, North Carolina with 30,441, and New York with 30,198. Florida has the highest cleanup backlog, 17,182, followed by California with 15,072 leaking tanks requiring remedial action.

Individual state breakdowns of UST activity are included in the Report which can be viewed at <http://www.epa.gov/oust/>

2. EPA TO DELAY INTRODUCTION OF ULSD, ALLOW HIGHER SULFUR CONTENT AT THE PUMP:

The U.S. EPA this week announced that the agency would extend the deadline for the introduction of ultra low sulfur diesel fuel (ULSD) at the retail level by 45 days. While the delay is short, the announcement is good news for petroleum marketers because it marks the first time the EPA has acknowledged that the 15 parts per million (ppm) maximum sulfur content in ULSD could be knocked off-spec by downstream sulfur contamination. The EPA said the deadline for the introduction of ULSD at the retail level would be moved back from September 1, 2006 to October 15, 2006. In addition, the EPA ruled that during the 45-day extension period, diesel fuel meeting a 22 ppm sulfur content may be marketed as ULSD. According to the EPA, the two changes would ease the transition to ULSD fuel. Refiners have lobbied heavily for the delay because they need the extra time to rid pipelines of sulfur residue that could push ULSD out of specification by the time it reaches the terminal rack. Even with the extra time, serious concerns remain that supplies of ULSD will be in short supply during the initial introduction period. Downstream contamination concerns are so serious that many pipeline operators have said they will not accept any ULSD with sulfur content higher than 8 ppm, leaving a full 7 ppm leeway for extra sulfur pick-up as it travels downstream.

3. NEW STUDY DOWNPLAYS THE EXTENT AND COST OF MTBE CONTAMINATION:

The extent and cost to cleanup MTBE contamination continues to heat up as Congress considers granting MTBE manufacturers product liability protection in pending energy legislation. A new study just released by a Massachusetts consulting firm drastically reduces overall cleanup cost projections for MTBE contamination. The study predicts cleanup costs will reach \$3 billion dollars over the next 30 years. The estimate by the consulting firm ENSR International is far lower than the \$140 billion

cost projections estimated by water utilities and state environmental authorities and blunts the argument that the manufacturer product liability provision would come at a high cost to taxpayers. The study asserted that the number of new LUST sites would decline due to storage tank upgrades and installation of enhanced leak detection equipment. Although new sites will continue to be identified, the pace of site closures due to cleanup should exceed the number of contaminated sites added, according to the study. In addition, the per site cost of cleanup is likely to decrease due to more rapid response to leaks, improvements in remediation strategy, and changes in zoning laws to lessen the impact of site releases. The study determined that 96 percent of cleanup costs at LUST sites is paid by tank owners, the EPA LUST Trust Fund, or other sources, leaving just 4 percent of the total cost as unfunded liability. Researchers cited EPA data that indicate less than 0.4 percent of community water supplies report MTBE in concentrations greater than 5 micrograms per liter. Critics of the study say it fails to take into account the costs associated with cleaning up contaminated aquifers and wells.

UPCOMING FEDERAL REGULATORY COMPLIANCE DEADLINES:

HAZMAT Registration: 07/01/05 – Petroleum marketers (intrastate and interstate) with cargo tank motor vehicles must register with the U.S. DOT and pay a fee of \$150 to obtain a hazardous material certificate. A copy of the 2005-2006 registration certificate must be placed in the cab of each cargo tank motor vehicle hauling hazardous materials. **You cannot operate a cargo tank vehicle after 07/01/05 without an updated HAZMAT registration certificate.** If you have not filed your registration form with the DOT, **expedited** online registration is available at <http://hazmat.dot.gov/regs/register/register.htm>.

Special Occupational Tax for Sale of Alcoholic Beverages: 01/07/05 - The Department of Treasury's Alcohol and Tobacco Tax Trade Bureau (TTB) requires retail sellers of alcoholic beverages to file an annual registration form and pay a special occupational tax (SOT) each year by July 1st. Congress **temporarily suspended** the annual \$250 per store tax on the retail sale of alcoholic beverages for three years beginning July 1. However, you must still file SOT form 5630.5 by July 1 in return for your federal tax stamp, just don't pay the \$250 per store tax. You should have received a form 5630.5 in the mail from the TTB, if not, you may obtain one by contacting the TTB at 1 (887) 882-3277 or at ttbformrequest@ttb.gov.

New IRS 637 Registration for Alcohol and Bio-diesel Blenders: 01/07/05 - In order to make tax payments and file claims for the alcohol fuel mixture credit, and the biodiesel mixture fuel credit blenders must obtain a IRS 637 "M" registration (blender of gasoline, diesel fuel or kerosene outside the bulk transfer/terminal system) by July 1, 2005. Blenders who currently have an IRS 637 "T" registration (buyer of gasoline for blending into gasohol outside the bulk transfer/terminal system) will be considered a 637 "M" registrant by the IRS for purposes of filing returns and making claims for the alcohol fuel mixture credit until July 1, 2005. **After this date, all blenders must obtain an IRS 637 "M" registration.** You may obtain an IRS 637 registration form at www.irs.gov. "Click" on "Forms and Instructions" and scroll down to Form 637.

