

Volume 20 Number 4

4th Quarter 2011

## New EPA Proposed UST Requirements

The U.S. EPA's Office of Underground Storage Tanks (OUST) proposed on October 27th major revisions to the federal underground storage tank (UST) requirements. The proposed rule marks the first major revisions to the UST program since underground tank upgrade requirements were promulgated in 1988. The proposed regulations are likely to add significant new compliance burdens on UST owner/operators, including what is essentially a double walled tank mandate for all new installations, E-15 storage tanks and lined USTs that cannot meet tough new inspection standards. According to the EPA, the revisions are designed to improve prevention and detection of UST releases and ensure all USTs - including those in Indian Country - meet the same minimum standards. The proposed changes include:

- Adding secondary containment requirements for new and replaced tanks and piping
- Adding operator training requirements for UST system owners and operators
- Adding periodic operation and maintenance requirements for UST systems
- Removing certain deferrals
- Adding new release prevention and detection technologies
- Updating codes of practice
- Making editorial and technical corrections

EPA is also proposing to update the state program approval (SPA) requirements to incorporate the proposed changes to the UST technical regulations listed above. TMS is reviewing the proposed UST revisions carefully and will provide more detailed information as it becomes available. The comment period in the rule is open for 90 days (November 18<sup>th</sup> to February 16<sup>th</sup> 2012).

## GAO Issues Study On E15 and Existing Infrastructure

*Biofuels: Challenges to the Transportation, Sale, and Use of Intermediate Ethanol Blends* is an excellent report issued by the Government Accountability Office (GAO) that highlights, among other things, barriers to selling intermediate (E15) blends of motor fuels.

GAO suggests that challenges due to regulations, technical issues regarding compatibility and cost could slow the retail sale of intermediate ethanol blends. Specifically, the report explains that:

GAO suggests that challenges due to regulations, technical issues regarding compatibility and cost could slow the retail sale of intermediate ethanol blends. Specifically, the report explains that:

- Federal and state regulations need to be met prior to the introduction of intermediate blends. Federal fuel requirements that affect the introduction of new fuels include fuel registration/health effects testing and reformulated gasoline testing. These requirements have not been completed for E15 but are in the process of being addressed. In addition to federal regulations, many state regulations or statutes contain references to specific industry standards for fuel published by a recognized standards development organization, including ASTM International and the National Institute for Standards and Technology (NIST). These standards, however, are only relevant to E10, and neither organization has published any standards related to the use of intermediate ethanol blends up to E85. Therefore, before allowing intermediate ethanol blends into commerce, the states that reference existing ASTM International or NIST standards would have to either (1) enact new statutes or regulations that no longer reference the existing standards, or (2) wait for ASTM International or NIST to update their standards related to intermediate ethanol blends. Either option could take more than a year to implement, according to GAO.
- Compatibility of legacy equipment with intermediate blends is an impediment to quickly introducing the product to the market. Federally sponsored research indicates that intermediate

- blends may degrade or damage some materials used in existing underground storage tank (UST) systems and dispensing equipment, potentially causing leaks. This creates a problem for gasoline retailers who must comply with federal safety standards—specifically, OSHA—which do not allow ethanol blends over E10 to be dispensed with existing equipment at most retail fueling locations. The GAO report notes that OSHA is still developing its position on the use of existing dispensing equipment with intermediate blends. In addition, inadequate record keeping may make it difficult for retailers with older stations to verify UST system compatibility with intermediate ethanol blends, especially if the station has changed hands several times since the equipment was purchased and installed.

**Retailers may face significant costs and risks in selling intermediate blends.** Due to concerns over compatibility, new storage and dispensing equipment may be needed to sell intermediate blends at retail outlets. GAO reports that for some retailers the costs to upgrade their equipment could amount to hundreds of thousands of dollars. GAO also references several industry representatives who raised concerns that fuel retailers could expose themselves to lawsuits for negligence and invalidate important business agreements that may reference those safety requirements, such as UST insurance policies, state tank-fund policies and business loan agreements.

The 50-page report is available at [www.gao.gov/new.items/d11513.pdf](http://www.gao.gov/new.items/d11513.pdf).

## FEBRUARY 29, 2012 - COMPLIANCE REPORTS DUE TO KDHE

KDHE compliance reports are due February 29, 2012. It would be a good idea to make a note of this on your calendar right now to make sure that you transfer this important information to your 2012 calendar.

A 2012/13 permit will not be issued if a facility is out of compliance which may prohibit fuel deliveries. Additional testing to prove compliance may be required if the deadline is missed.

## Operator Training

TMS offers free registration for operator training. KDHE will require every UST owner and operator to be certified to renew their tank permit.

If you have not registered for operator training, now is the time with plenty of classes available. To register go to our website [tankmgmt.net](http://tankmgmt.net). Click on Operator Training or call 800-530-5683 Topeka 233-1414.

February 8	Salina BiCentennial Center 800 The Midway Room 203 Salina, Kansas
February 9	House of Schwan - Meeting Room 3636 N. Comotara Wichita, Kansas
March 6	Fort Hays State University Memorial Union 600 Park Street Trails Room 217 Hays, Kansas
March 7	Kansas Soybean Association Board Room 1000 SW Red Oaks Ct. Topeka, Kansas
March 8	Doubletree Hotel Kansas City Theatre Room 10100 College Boulevard Overland Park, Kansas
April 3	Salina BiCentennial Center 800 The Midway Room 203 Salina, Kansas

### WHAT IS TANK MANAGEMENT SERVICES?

**TMS provides loss control and risk management assistance to UST owners who have third party liability insurance through Great American Custom as part of the Kansas Underground Storage Tank Liability Plan.**

**TMS can provide you with information on USTs –leak detection methods, and Federal and State regulations. Call TMS toll free at 800-530-5683 during normal Central Time Zone office hours (8-5). In the Topeka area, please call 233-1414. On the web go to [tankmgmt.net](http://tankmgmt.net). David Engelken is available to answer your questions. *This Service is free.***

To have the advisor E-mailed to you go to [tankmgmt.net](http://tankmgmt.net) click on Advisor.