

latest leaks



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PETROLEUM STORAGE TANK INSURANCE FUND

MAY 2009

Attention AST Owners

The PSTIF has published a proposed change to its rules for the “extended reporting period” that is offered to insured AST owners/operators. Heretofore, when an insured owner/operator took *one* of several ASTs out of service, the PSTIF offered “tail coverage” on the one tank and continued to insure the active tanks. Under the new proposal, this situation would be handled the same as it is for USTs – i.e., the empty tank would continue to be insured along with the active tanks, and only if *all* insured tanks are taken out of service would “tail coverage” be offered.

In addition, the PSTIF is proposing to include third-party benefits as part of its “tail coverage” for ASTs.

The proposed rule changes are at <http://snipurl.com/pstif014>. Comments are invited until June 15, 2009. Both changes were recommended by the PSTIF Advisory Committee.

“Stimulus Bill”

In February, the U.S. Congress enacted and the President signed the American Recovery and Reinvestment Act of 2009, (ARRA), commonly known as the “Stimulus Bill.”

Among other things, this federal law contained a special one-time appropriation from the federal LUST Trust Fund for “cleanup activities” involving petroleum UST sites. Missouri will receive \$3.254 million.

The PSTIF and the MDNR are collaborating to identify sites where the federal money can best be used; it is likely most of it will be spent where UST removal and/or cleanup are

needed but the site is not eligible for PSTIF benefits. The PSTIF is recommending sites where there is no legally responsible party to do the cleanup, because – if there is – the MDNR would then have to demand repayment from that person.

Meanwhile, Missouri has established two brand new and separate accounts in the State Treasury, into which all money from the ARRA will be deposited and from which it will be spent. This will make it easier to track how much money is received and spent, separate from Missouri’s normal state government operating budget.

RBCA Rules

DNR’s long-awaited “risk-based” rules governing tank site cleanups appeared in the May 1 Missouri Register at <http://snipurl.com/pstif015>. Comments on the proposed rules will be accepted until August 27, 2009, and a public hearing will be held on August 20, 2009.

As announced in the last issue of *Latest Leaks*, the PSTIF Board of Trustees engaged a contractor to prepare an alternate set of rules, based primarily on the agreements reached during the 2002-2004 “stakeholders’ process” and contained in DNR’s 2004 Tanks RBCA Guidance. That set of rules is available online at <http://snipurl.com/pstif016>.

The DNR’s Hazardous Waste Management Commission will ultimately have to decide which rules, or which portions of the two sets of rules, to impose. The DNR and the PSTIF have agreed to try and resolve the differences by meeting with an independent third party during the months of June

and July, who will listen to both parties’ views and make recommendations to the Hazardous Waste Management Commission.

Owners, operators, landowners and/or consultants are encouraged to engage in the dialogue over the next four months.

Equipment Company Obligation

The DNR, Attorney General’s Office and the PSTIF are continuing their coordinated efforts to make sure all operating USTs are registered and have pollution insurance coverage, (i.e., a Financial Responsibility (FR) mechanism). What many may not realize is that equipment companies are obligated to ensure that the USTs they sell are registered.

State law says, “Any person who sells a tank intended to be used as an underground storage tank shall notify the purchaser of the tank in writing” of the requirement to register the UST with the DNR. The registration form requires information on what FR mechanism is in place.

So equipment companies – beware! If you sell a new UST system to a customer, and that customer fails to register his UST system with DNR and/or fails to obtain a FR mechanism, you may be asked to demonstrate that you notified your customer in writing of this requirement.

Monitoring Well Fees

When wells are installed or plugged, state law requires the activity to be reported to the Department of Natural Resources on specific forms, each of which must be

accompanied by a fee. The DNR's Wellhead Protection Section and the Well Installation Board (WIB) administer this law.

Recently the WIB published amended regulations that allow higher fees to be charged for these reports. At its meeting on May 15, the Board will make a final decision on what the fees will be.

Recommended changes are as follows. For installation (certification) of a monitoring well, the fee may increase from \$75 per well to \$100. For plugging (registration) of a monitoring well, there has not previously been a fee charged; now there may be a fee of \$50 per well. Wells less than ten feet deep are exempt. Temporary piezometers or wells that are in existence for 30 days or less are also exempt from the certification form and fee; however, plugging of temporary wells must be reported on a registration form and are subject to the registration fee. If multiple temporary wells at one site are plugged in the same manner, all can be reported on one form with one fee.

If the WIB implements these new fees as expected, the PSTIF will recognize and reimburse the additional costs.

E15?

EPA is inviting comments on whether to issue a waiver under the Clean Air Act and *allow* the sale of fuel that is 15% ethanol. Comments must be submitted by May 21, 2009. For more information, see <http://snipurl.com/pstif012>.

Dry Cleaner Deadline

Former dry cleaning properties must be reported to the DNR by July 1, 2009 to be eligible to receive cleanup funds from Missouri's Drycleaning Environmental Response Trust Fund. Any person may give notice of the site; the notification form is available at <http://snipurl.com/pstif013> or by calling 573-526-8913.

Everybody Needs FR

Missourians are rightfully proud and protective of our beautiful state. That's why – if you store fuel in regulated underground or aboveground tanks, or you install or work on tank systems – state law requires you to have a “financial responsibility (FR) mechanism” to pay for cleanup if your tank system leaks or your work causes a leak.

For AST owners, the deadline to get FR is December 31, 2010. Call us at 800-765-2765 for help or information.

Latest Leaks is a newsletter of the Missouri Petroleum Storage Tank Insurance Fund.

www.pstif.org

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