

GUIDANCE FOR PROGRAM STAFF
FOR COMPLIANCE ASSURANCE AND ENFORCEMENT
FOR THE
UST SECONDARY CONTAINMENT DEADLINE

STRATEGY FOR COMPLIANCE AND ENFORCEMENT

IDENTIFICATION OF NON UPGRADED FACILITIES

Storage Tank Regulation Section (STRS) Duties

STRS will identify UST facilities that are coded as single walled systems in a report to the Districts and Counties, monthly. The report will also distinguish facilities that are eligible for funding under Limited Scope Removal Initiative (LSRI) funding. This report will be in an Excel workbook that delivers data statewide and separately by county.

LSRI Facilities will be mailed notification of the availability of LSRI funding to those facilities which meet eligibility criteria by November 20, 2009.

FACILITY STATUS VERIFICATION

Inspection Staff Duties

Inspectors will verify the status of all facilities on the report during the first ten days of every month through the Excel Upgrade Workbook. Verification may be accomplished through site visit, phone calls or through record search of county permitting offices for permits for upgrade construction. The inspectors shall update Storage Tank Compliance Monitoring (STCM) for system attributes (as applicable) and shall instruct the owner/operator to update their registration. Once a facility has been upgraded, taken out of service, or closed that facility will be removed from the list.

December 2009

Compliance inspectors will focus their attention on non-upgraded facilities (i.e., facilities where the tanks have not been upgraded and do not appear to be taking steps to upgrade). A "Site Status Verification" will be conducted of those facilities that are listed in STCM database as a non-upgraded facilities beginning December 4, 2009. Inspectors are to update the spreadsheet and submit the updated spreadsheet back to STRS no later than December 11, 2009. STRS will mail out the "last chance letter" (Attachment **A**) to all facility owners that are listed as operating single walled tanks no later than December 16, 2009.

Inspectors are to inquire as to when work will be completed at facilities which have a contract in place and, if applicable, have applied for permits. If the responsible party indicates that they have acquired a contract or have applied for permits, copies should be forwarded to the contracted county by the

responsible party. If it appears that the work will not be completed by March 31, 2010, inspectors are to encourage Owner/Operators to come to the Department to negotiate a consent order that will acknowledge their efforts to upgrade and may only require nominal penalties for facilities that have not completed the upgrade by March 31, 2010. Owners/Operators who do not inform the Department prior to March 31, 2010, that work will not be completed by March 31, 2010, may not have the opportunity to negotiate penalties.

A small number of non-upgraded facilities may qualify for limited state funding to assist them with the ancillary costs of upgrades which includes the removal of contaminated soil. Of the approximate 1,490 facilities that have not yet upgraded, approximately 770 facilities have a least one open state funded eligible discharge. Of these facilities that have an eligible discharge, approximately 639 of them are below score range and potentially qualify for the Limited Source Removal Initiative (LSRI) which provides assistance of up to \$50,000 for contaminated soil excavation and disposal (LSRI does NOT pay for the cost to remove the tank or to install a new tank). The attachment "B" notice outlines the LSRI program and shall be mailed to each facility owner who qualifies for the LSRI and hand delivered by the inspector during inspection. The Department will generate a list of facilities that qualify for the LSRI by district and county, and provide this list to both entities.

January 2010

On January 4, 2010, compliance inspectors will institute an inspection sweep of the facilities that have failed to meet the upgrade deadline, exclusive of those facilities that have already demonstrated to the Department that they had a contract or permits in place by December 31, 2009. This sweep must be completed by January 8 and data updates completed by January 12, 2010. The Bureau will then generate an upgrade report. Non-upgraded facilities that have not demonstrated that they have a contract or the permits in place and do not have a consent order for upgrades either in process or executed will be mailed the after the deadline "last chance letter" (attachment **A1**) by the contracted county.

February –March 2010

On February 22, the compliance inspectors will undertake another sweep of facilities that have not upgraded. The sweep must be complete by February 26 and data updates complete by March 2, 2010. The Bureau will then generate an updated upgrade report. The data from this report will be used to address issues that may arise during the legislative session. Districts and approved local programs are to mail the non-upgraded facilities that have not demonstrated that they have a contract or the permits in place and do not have a consent order for upgrades either in process or executed the warning letter (attachment "C").

April 2010

On April 1, 2010, the compliance inspectors will undertake a sweep of facilities that are still operating their single walled tanks. This sweep must be complete by April 8, 2010 and all data updates complete by April 9, 2010. The Bureau will then generate an upgrade report. For all facilities without a consent order in place relating to upgrades that are continuing to operate their single walled tanks systems as of the date of the inspection, the inspector will notify the facility that its tanks must be taken out of service within seven days of the date of the inspection. If the facility fails to place its tanks out-of-service, the

Department may pursue enforcement action in Circuit Court requesting injunctive relief which requires the facility to immediately cease operations and permanently close the storage tank systems, along with the daily assessment of penalties.

Any extenuating circumstances may be considered on a case by case basis.

Teleconferences

STRS will conduct monthly conferences with Districts Tank Managers and County Tank Supervisors beginning December 3, 2009, through May 2010.