

Underground Storage Tanks... Are You Sure You're Insured?

OCTOBER 2010

Under a directive from USEPA, NJDEP agents (and their County counterparts) are out in force inspecting all regulated underground storage tanks (USTs) at least once every three years. In addition to registration, monitoring and recordkeeping, the UST rules also require that the owner/operator maintain insurance for UST systems. NJDEP can lock-out your tanks for violating this requirement.

In order to prevent you from becoming buried under complicated policies and regulations, and to ensure your operations continue uninterrupted, the following review of requirements for UST systems will make obtaining and maintaining UST insurance from the Environmental Joint Insurance Fund (EJIF) a bit less daunting.

WHAT IS AN UNDERGROUND STORAGE TANK (UST)?

Pursuant to the UST Rules at N.J.A.C. 7:14B, each tank – including appurtenant pipes, lines, fixtures, and other related equipment – used to contain an accumulation of hazardous substances or heating oil, which is 10 percent or more beneath the surface of the ground, is a UST.

All regulated USTs (including piping) must be registered with NJDEP and, when applicable, possess a form of leak detection, corrosion protection, overflow prevention, and spill prevention. A Release Response Plan and proper fill port markings are also required, as are monthly inspections and, when applicable, annual testing. Supporting documents (test results and recordkeeping) are required to show compliance.

All requirements must be satisfied to be compliant with NJDEP regulations and to maintain insurance coverage. If you have received a recommendation from Birdsall Services Group (BSG) during an EJIF site audit, you may not be compliant with N.J.A.C. 7:14B.

IS MY UST SYSTEM REGULATED?

Not all USTs are regulated, and some regulated USTs are exempt from certain NJDEP UST requirements. However, all regulated USTs must have insurance to be compliant with N.J.A.C. 7:14B. The definition of a regulated UST is broad and has many nuances. A few exemptions and other points of distinction follow:

Unregulated Heating Oil USTs

Any UST that contains any volume of heating oil used solely for onsite consumption in a residential building, or any UST or group of USTs with a total (aggregate) capacity of 2,000 gallons or less used to store heating oil solely for onsite consumption in a nonresidential building, is not a regulated UST and is exempt from many regulations found in N.J.A.C. 7:14B. (If a site's aggregate underground heating oil storage exceeds 2,000 gallons, each tank, regardless of size, is considered a regulated UST.)

In order to maintain insurance coverage through the EJIF for unregulated heating oil tanks greater than 15 years of age, an integrity test must be conducted annually to ensure that the tank and piping are not leaking. Please note that because insurance is not required for unregulated heating oil USTs under current regulations, EJIF will no longer provide coverage for these tanks after 2014.

Emergency Generator USTs

A UST containing motor fuel (any grade) used solely for combustion by an emergency generator is a regulated UST; but is not required at this time to have a form of leak detection. All other components and systems required for a regulated UST must be present to be eligible for insurance coverage. Please note that if the UST also supplies fuel for another purpose, such as a boiler, it does need a form of leak detection.



Oil-Water Separator Tanks

Under N.J.A.C. 7:14B-1.4(b)11, oil-water separators that have an effluent, and therefore function as flow-through process tanks, are not regulated USTs and are exempt from the UST Rules. However, if the oil-water separator does not discharge to the sanitary system or to a separate holding tank, it is a regulated UST. Also, if the oil-water separator discharges either oil or water to a separate holding tank, the holding tank (if 10% buried) is a regulated used oil UST and subject to UST Rules.

UST System Modifications

If you have modified your UST system in any way, including changing the material contained within, a revised UST Questionnaire must be certified and submitted to the NJDEP. In the case of a new system or major modification, which may include some repairs and upgrades, a UST Substantial Modification Permit Application must be submitted to NJDEP within 30 days prior to use of a new UST system and within 7 days after completion of a substantial modification. In addition, even if the UST would not meet the definition of a regulated UST after the change (for example pumping out diesel fuel and replacing it with water, a nonhazardous material), the UST system is still regulated until it has been properly closed in accordance with the closure requirements of N.J.A.C. 7:14B-9.

Other Exemptions from N.J.A.C. 7:14B

- Septic Tanks
- Below Grade Aboveground Tanks (if all sides and the base can be visually inspected)
- Wastewater Treatment Tanks
- Hydraulic Lift Tanks

IS MY UST SYSTEM INSURED?

As an EJIF member, if your regulated or unregulated UST meets the requirements above, and the system has been recommended for insurance by a representative of Birdsall Services Group (BSG), you should have received a Certificate of Insurance at the beginning of each year or shortly after a passing inspection. These certificates must be renewed each year and are available from the EJIF UST underwriter, Danskin Agency. If you are unsure, or did not receive your certificate(s), you may contact your Risk Management Consultant or your BSG inspector at the number below to confirm the status of your UST coverage recommendation.

Please note that if you have recently joined the EJIF or are planning to leave (thus cancelling the UST policy), the issuing financial institution must notify the NJDEP in writing within 30 calendar days after the cancellation or expiration of any form of financial assurance, in accordance with N.J.A.C. 7:14B-15.1(l).

NJDEP guidance regarding UST system requirements can be found at www.nj.gov/dep/srp/bust.

For additional information about whether your UST system is compliant with applicable rules or is recommended for insurance coverage, please contact:

Richard Erickson at 908.497.8900 x6175 or via email at rerickson@birdsall.com
Jared Eudell at 908.497.8900 x6279 or via email at jeudell@birdsall.com



BIRDSALL SERVICES GROUP
ENGINEERS & CONSULTANTS