

There's an Underground Storage Tank on the Property

What Do I Do?

Real estate agents/brokers can feel uneasy when they realize that a property they are showing or listing has or had one (or more) underground storage tanks (USTs) on the premises. Part of this unease may stem from not knowing what needs to be done or who to turn to for assistance in dealing with USTs. If you are a real estate agent/broker who sometimes must deal with USTs on properties in Maryland and would like to better understand how to go about this, this booklet is for you.



This Information Can Help You and Your Clients

This information can help you and your clients by:

- Answering your own as well as your clients' questions about USTs.
- Helping you understand the various options a seller or buyer has when an UST is on a property.
- Helping you direct a client who needs to contact the UST regulatory authority.
- Helping you direct a client who needs to find an UST technician or contractor.
- Telling you where to obtain more information on USTs.



This Information Can Also Help You Conduct Quicker, Smoother Transactions

The information provided here is based on good tank management and on comments made by real estate professionals just like you who work with properties containing USTs. These professionals have learned that by becoming a bit more knowledgeable about USTs, they can increase the likelihood that their transactions involving USTs will progress quickly and smoothly. They realize good tank management makes for better real estate business, for a property with a properly maintained UST is a much more attractive property to buyers—not to mention lenders. They anticipate that a well maintained UST will require less interaction with regulatory authorities. They also realize that there is less of a chance the UST could re-emerge as an issue or problem after a transaction is completed if a tank is properly maintained.



So...What Do I Need to Know?

This section provides you with a framework for understanding how and why USTs are regulated in Maryland. The following pages contain common questions and answers about properties with USTs in the state. (*Please note*, however, that this booklet is not meant to be a comprehensive guide to Maryland UST regulations but only a "layman's" introduction to them. A section at the end of the booklet lists sources of more complete information.)

What, Technically Speaking, is an UST?

An underground storage tank (UST) is a tank and any underground piping connected to the tank that is buried at least 10 percent underground (*except* residential or farm tanks with 1,100 gallons or less capacity).

Why are USTs Regulated?

USTs containing petroleum and certain hazardous chemicals are subject to federal, state, and, sometimes, local regulation. USTs are regulated because petroleum or other hazardous substances can leak from them into the soil and contaminate groundwater, the source of drinking water for 40 percent of all citizens of Maryland.

Who is the UST Regulatory Authority?

The U.S. Environmental Protection Agency (EPA) has promulgated federal UST regulations; however, the federal regulations have been essentially duplicated as state regulations, and the Maryland State UST program has been granted State Program Approval by EPA. So it is the Maryland Department of the Environment (MDE) which principally enforces UST regulations in the state and which is the immediate regulatory authority.

The information in this booklet is based on Maryland UST regulations; these are the ones UST owners and operators and property owners in the state are legally held accountable for. (*Note: There may be other health and safety regulations at the local level which may apply to an UST and which are not included here; contact your county permits division and the local fire marshal's office for further information.*)

MDE can provide technical information and publications and furnish other assistance, such as tank histories and lists of companies that do tank work, to real estate professionals and their representatives and clients. Contact:

**Maryland Department of the Environment
Waste Management Admin., Oil Control Program
1800 Washington Blvd., Suite 620
Baltimore MD 21230-1719
Telephone: 410-537-3442
Toll Free: 1-800-633-6101, ext. 3442
Fax: 410-537-3092
TTY users: 1-800-735-2258 via MD Relay Service
<http://www.mde.state.md.us>**



How Do I Deal with USTs at Listing Time?

Here are some of the things a real estate professional should consider when listing a property in Maryland that may now or in the past have contained an UST.

Is There One UST or More on the Property?

Keep in mind that *any* property may contain an UST (or more than one). USTs have been found in many unusual places, and some USTs do not give any visible indication of their presence below ground. Many converted properties, such as fast food restaurants, were previously gasoline service stations.

Examples of where USTs are commonly found are: gasoline stations, convenience stores, residences, trucking and busing terminals, railroad yards, airfields, and shipyards. Some places where USTs might not be suspected but where they have been found include: marinas, government facilities, schools, auto repair shops, race tracks, farms and ranches, factories, and retail facilities.

A walk-through of a property may uncover indications of abandoned USTs; items to look for include:

- **Old vent piping.** Vent piping is usually found outside of structures, and it normally is 2- to 12-foot tall. Vents are normally made of 1½- to 2-inch galvanized piping and in many cases have a cap which looks like a mushroom on the top of the piping.
- **Fill pipes.** Fill piping is normally directly over the top of an old UST. A fill pipe can be 2- to 4-inches in diameter. In most cases, the fill pipe will have a special cap that requires a tool for its removal or a cap with ears which locks it in place.
- **Dispensers.** Especially on former farm and gas station sites, the old dispenser may still be standing. These units can be large like the one you fill your car with, or they can be a small pipe with an electric motor and hose attached.
- **Abandoned piping.** In many buildings that have changed their source of heat, you may find abandoned piping. This piping may be copper lines or galvanized pipe. There are normally two lines associated with an oil heat system. If abandoned lines run out through a wall, there is a good possibility that there is an UST on the other side.

MDE is the place to begin to investigate a property for USTs. MDE maintains information on a large number of open and closed UST sites across the state. MDE already may have information on a particular property. You need only contact MDE with the address or location of the property in question.

If MDE Has No Record of an UST on the Property, How Can a Property be Investigated for USTs?

A way to investigate a property for USTs is to have the property owner contract to conduct a home survey or an environmental site assessment of the entire property at the time of listing. Lenders often require a site assessment before they make a loan on certain types of commercial properties. Also, if you or the owner suspect that the property has or ever had USTs, and you list the property without confirming this, you run the risk of spending dollars to advertise a property, lining up a buyer, and then having the deal fall through if the potential buyer requests a site assessment and discovers an UST(s) and possible contamination from a leak.

The site assessment should be conducted by knowledgeable and experienced personnel. MDE can provide an updated list of companies that perform site assessments. Real estate professionals or their clients can call the Oil Control Program in MDE at (410) 631-3442 for answers to specific questions concerning site assessments in Maryland.

What About Possible Contamination from a Leaking UST?

The question of possible contamination from a leaking tank (past or present) will almost certainly come up in any transaction involving property which has or had an UST. If MDE has records of a property, these records can shed light on this question (for either the seller or the buyer). A thorough site assessment of the property should provide the UST owner with details on any contamination found. Any past or newly-discovered contamination must be disclosed to any potential buyer and be reported to MDE to determine if remedial action is warranted.

By State law, any contamination discovered from leaks from an UST must be reported to MDE within two (2) hours after its discovery. Contamination must be reported to MDE whether the UST will remain in the ground or not. MDE will determine the level of cleanup effort, if any, necessary to protect human health and the environment.

To report a discovered discharge, the property owner should call (410) 974-3551 (24 hours).

What if it is Decided to Close an UST?

Often, either a potential buyer or the lending institution will want an UST to be properly closed before a property sale occurs. There are specific state requirements the property owner must follow for the proper closure of an UST; Maryland regulations require the following basic actions when closing an UST.

1. **MDE must be notified by calling (410) 631-3442 at least 30 days before the UST is taken out of service for closure. (Call this number to confirm 48 hours prior to the scheduled date as well.)** MDE must monitor the actions taken.
2. **Determine if spills or leaks from the UST have contaminated the surrounding environment.** The results of monthly vapor or groundwater monitoring can be used to show that the site is not contaminated. Otherwise, a site assessment needs to be completed (if it hasn't already been done). If the MDE inspector is on site, he/she will perform the needed assessment. If contamination is found, corrective action—as determined by MDE—to clean up the site will have to be taken.
3. **The UST must be emptied of liquids, dangerous vapor levels, and accumulated sludge and then be removed.** These potentially very hazardous actions need to be carried out by trained and certified personnel who carefully follow standard safety practices. After the tank has been properly emptied, it must be removed. (A list of companies that perform this work in Maryland is available from MDE.)

What if an UST Will Remain in Operation?

Any contamination from past or present leaking USTs on the property must be addressed by the property owner in cooperation with—and to the satisfaction of—MDE.

If an UST will be kept in operation after the sale, potential buyers may want to know if it is in compliance with Maryland UST regulations. There are two different sets of UST regulations, depending on the products stored in the UST: (1) For USTs storing motor fuel, used oil, or bulk heating oil, *or* (2) For USTs storing heating oil. (Use the applicable set of regulations for each UST.)

1. For USTs storing motor fuel, used oil, or bulk heating oil:¹

- ❑ **The UST must be registered.** Maryland regulations require that an UST be registered with MDE. Also, applicable fees for the 1991–1995 period should have been paid. (Fees are no longer in effect after June 30, 1996.)
- ❑ **The UST must have spill protection.** The UST must have a catchment basin to contain spills which may occur when the delivery hose is disconnected.
- ❑ **The UST must have overfill protection.** Overfills usually release much larger volumes of fluid than spills. The use of overfill protection devices (such as automatic shutoff devices, overfill alarms, and ball float valves) can help prevent overfills that can occur during delivery.
- ❑ **The UST must have a leak detection system and be checked regularly for leaks.** Every UST must have a properly maintained leak detection system. USTs must be checked for leaks on a regular basis (*Note:* Emergency generator USTs do not need to follow monthly release detection but must be tested at 15 years of age and every 5 years thereafter.)
- ❑ **An UST with corrosion protection must be tested and inspected regularly.** An UST made of noncorrodible material such as fiberglass does not need corrosion protection. An UST (and any piping) made of a corrodible material like steel must have a way of preventing the corrosion, which can cause leaks. The tank and its corrosion protection system must be tested and/or inspected regularly—at least once every 3 years.
- ❑ **The tank owner/operator must demonstrate liability coverage.** Financial responsibility regulations require that an owner or operator have the resources to pay for costs associated with cleaning up releases and compensating third parties in the event of a leak or spill.
- ❑ **The tank owner/operator must keep records of tank operation.** An UST owner/operator must keep records of: tank installation and upgrades, maintenance, and repairs; maintenance of the leak detection system and leak detection monitoring; documentation of corrosion protection and testing; and any releases and corrective actions taken. Also, accurate inventory records must be kept daily.
- ❑ **The tank owner/operator must report releases and take corrective action to clean up contamination.** Any suspected

¹ Spill, overfill, and corrosion protection compliance deadline is December 22, 1998. All other requirements are in effect now.

releases must be reported to MDE. If a release is confirmed, the owner must also report follow-up actions planned to correct the damage caused by the release.

MDE is the compliance authority for these tanks, and property owners should contact MDE if they have questions on compliance issues. Owners needing to upgrade or replace a tank may want to inquire about a loan from Maryland's UST Upgrade and Replacement Fund. (Deadline for applications is June 30, 1998.) MDE also can provide a list of companies that upgrade or replace tanks. Owners may apply for reimbursement to the Oil Contaminated Site Environmental Cleanup Fund for assistance with cleanup costs. (Contact MDE for information on all these services.)

2. For USTs storing heating oil for direct consumptive use:²

- The UST must be registered.** Maryland regulations require that USTs be registered with MDE.
- The UST must be tested.** Maryland regulations require these systems to be precision tested at 15 years of age and every 5 years thereafter.

² Existing systems (those installed prior to March 15, 1985) must comply with registration and testing requirements. New systems (those installed after March 15, 1985) must comply with all of these requirements.

- The UST tank field must have two monitoring pipes.** Maryland regulations require that at least two monitoring pipes be installed in the tank field of newly-installed tanks to detect any leaks.
- An UST installed after November 4, 1996, must have spill protection.** The UST must have a catchment basin to contain spills which may occur when the delivery hose is disconnected.
- An UST installed after November 4, 1996, must have overfill protection.** Overfills usually release much larger volumes of fluid than spills. The use of overfill protection devices (such as automatic shutoff devices, overfill alarms, and ball float valves) can help prevent this. (For USTs under 1,000-gallon capacity, a whistle alarm would suffice.)

MDE is the compliance authority for tanks storing heating oil for direct consumption. Property owners with compliance questions should contact MDE.



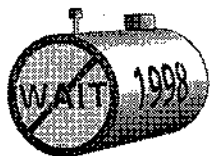
If USTs Are Present, Contact MDE 30 Days Before Settlement

If the steps outlined in this booklet have been followed and actions taken accordingly, both you and your client are now on your way to a more orderly, expeditious, and uneventful real estate transaction. If the property has an UST, let MDE know of your closing requirements at least 30 days in advance of your settlement date so everything can be completed in time.

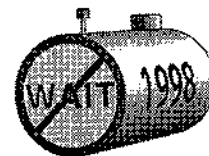


For Further Information

Please note that this booklet is intended only as a *brief* introductory guide for real estate professionals on UST management in Maryland. More detailed information, including the citations for state statutes and regulations governing USTs in Maryland, is included on page 8.



Further Information on USTs



Where to Find the Legal Statutes and Regulations
and Other Publications and Information on Underground Storage Tanks

- Visit MDE's Home Page at <http://www.mde.state.md.us>.
 - Contact MDE's Oil Control Program at 410-631-3442 to inquire about:
 - A listing of publications available from MDE (and their costs, if applicable).
 - Obtaining a copy of the following Maryland statutes or regulations or locating a library near you where you can see them.
 - **Maryland State Statutes:** Environment Article, *Annotated Code of Maryland*, Title 4, Subtitles 4, 6, and 7.
 - **Maryland State Regulations:** *Code of Maryland Regulations* (COMAR) 26.10, "Oil Pollution and Tank Management."
 - Call NCEPI toll-free at 1-800-490-9198 for a free copy of these EPA publications on USTs. These publications can also be accessed on the EPA Home Page at <http://www.epa.gov/OUST/>.
 - ***Don't Wait Until 1998*** (EPA 510-B-94-002) Information to help owners and operators of USTs meet the 1998 deadline for compliance with requirements to upgrade, replace, or close USTs installed before December 1988. [16 pages]
 - ***Musts For USTs*** (EPA 510-K-95-002) Clearly summaries federal UST requirements for installation, release detection, spill, overfill, and corrosion protection, corrective action, closure, reporting and recordkeeping. [40 pages]
 - ***Dollars and Sense*** (EPA 510-K-95-004) Clearly summarizes the financial responsibility required of UST owners and operators by federal UST regulations. [16 pages]
 - ***Straight Talk on Tanks*** (EPA 510-B-97-007) Explains federal regulatory requirements for leak detection and briefly describes allowable leak detection methods. [16 pages]
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