

# **ASTSWMO UST Managers Workshop:**

## *Tackling UST Operational Compliance*

**Key Bridge Marriott Hotel  
1401 Lee Highway  
Arlington, VA 22209  
703.524.6400**

### **Meeting Summary**

**DAY 1     October 22, 2001**

8:00 AM

#### **Introduction**

Introduction of all attendees

Moderator:    Mick Butler, MD

UST Program performance following the 1998 Deadline has gotten renewed interest on many different fronts. The MTBE problem accounts for a good portion of this turn of events. However, reviewing the GAO report and matching it with the first round of state reports on the new compliance performance measures provides the first look at where we might be headed. We come together to learn from each other. Perhaps now is the time to reassess your approach to compliance.

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**DAY 1**

8:30 AM

### **Defining Operational Compliance**

Moderator: Lynn Woodard, NH

What is Operational Compliance? Why is operational compliance different from structural or equipment-based compliance? What are the pros and cons of states defining it? How well suited are states to measure it?

Speaker: Mark Barolo, EPA-OUST

Measuring compliance rates is a basic necessity for all programs, including the UST program. But measuring compliance accurately and consistently has proven to be a significant challenge, especially given the decentralized nature of the UST program, and the variations among state programs. Yet we forge onward nonetheless. After years of focusing on whether UST systems were Equipped to comply with the regulations, we have now refined our focus to whether UST systems are being properly operated as well. We refer to this new level of compliance as significant operational compliance. While this will be a more accurate reflection of real compliance, we have struggled in our attempts to properly define and measure significant operational compliance.

This session will explore the rationale for moving to this new measure of compliance, as well as the efforts taken to develop a meaningful and useable definition - including the decisions/compromises we had to make. Finally we will discuss the response from the states to these new measures, including concerns expressed, solutions pursued, quality of data submitted, and the ability of states to track and report this new measure.

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DAY 1

9:15 AM

**How EPA New England (Region I) Defined Significant Operational Compliance.**

Speaker: Bill Torrey, EPA New England

EPA has recently shifted its emphasis from asking states to measure UST fleet changeover (from leak prone bare steel systems to state-of-the-art equipment) to gauging actual compliance found in the field. In spite of the work of the 10 states workgroup, which sought to define significant compliance, many gray areas remain. At the same time, a management change in HQ-OUST brought a change of program philosophy from emphasis on "Continuous Improvement" goals of TQM to a "States accountability" embracing the concepts of targets. This presentation will share how the New England States mutually agreed on a consistent approach to measuring and reporting UST compliance statistics for purposes of reporting to EPA Headquarters, and to begin to develop solutions to improving operational compliance by UST facility owners and operators.

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**DAY 1**

10:15 AM

**Autopsy Reports of Significant LUSTs related to Operational Compliance Problems.**

Speaker: Bill Liniesch, EPA-OUST

Operational compliance with the State and Federal regulations is key to preventing another generation of underground storage tank systems. Simply having the equipment does not mean an owner or operator is in compliance? The equipment also needs to be operating properly. For example, a leak detection monitoring device installed at a UST system does no good if it is not being checked to see if the UST system is leaking or if it is not operating properly. The first part of this presentation will briefly discuss the question "Why is operational compliance important?" Some states and regions have been gathering information about new releases when they occur. Data being gathered includes UST system information (such as tank material, piping material, and leak detection used), what component leaked, why that component leaked, and how the release was discovered. The Office of Underground Storage Tanks has gathered this information from Regions 1, 4, and 6 and Missouri's Petroleum Storage tank fund and has analyzed the data received as of August 2001. The second part of this presentation will discuss in detail the data trends identified thus far and the limitations of the data.

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## **DAY 1**

11:00 AM

### **Lessons Learned/Unresolved Operational Compliance Points: The Gray Areas of Guidance.**

Speaker I: Christopher Bonanti, NTSB  
Speaker II: Therron Blatter, UT  
Speaker III: Thomas Beaulieu, NH

Based on increasing post-98 field inspections, a number of regulatory issues are being voiced that require interpretation. What are these issues, which are most pressing, and how should they best be resolved? Learn about unsolved UST mysteries and how you can help.

In this session three speakers will present material designed to stimulate an exciting and informative question and answer period. The information will be germane to all regulated UST facilities, and is intended to identify and answer those questions that we all have been struggling with.

#### **Speaker I: Christopher Bonanti, NTSB**

Case studies in a variety of disasters from the perspective of the NTSB Office of Railroad, Pipeline & Hazardous Materials Investigations will be examined.

#### **Speaker II: Therron Blatter, UT**

Gray Areas in UST Operational Compliance will be discussed. Compliance with UST regulations is not always as clear-cut as it may seem. Gray areas in the regulations may result from differing interpretations, oversights in the original regulation, and changing technology. This presentation will focus on a gray area in the federal release detection requirements that allowed a 20,000-gallon release to go undetected by state-of-the-art leak detection equipment. We will review what caused this release and what might have been done to prevent and/or allow for earlier detection. Other potential gray area problems will also be discussed.

DAY 1

11:00 AM

**Speaker III: Thomas Beaulieu, NH**

The intent of the technical criteria requirements contained in the UST regulations is to: (1) prevent releases from occurring, and (2) if releases do occur, detect them as soon as possible after they occur. In the post December 1998 era, New Hampshire, like most states, has shifted its priorities from equipment upgrade or replacement to operational compliance. Increased on-site compliance audits have revealed a substantial lack of compliance and O/O understanding of significant operational issues. O/O are required to maintain UST systems with corrosion protection, leak detection, and spill and overflow devices. However, with the use of on-site compliance audits, it has become evident there is a lack of knowledge and understanding of the regulations and the required operation and maintenance needed to properly operate a regulated UST facility. This presentation will discuss lessons learned and unresolved issues relating to cathodic protection testing and leak detection.

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**DAY 1**

1:30 PM

**Assessing Operational Compliance.**

Moderator: John Cochran, NM

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1:45 PM

**How do states determine Operational Compliance (Inspection issues).**

Florida - Inspection Manual and Training - Tanks School

Speaker: Marshall Mott-Smith, FL

Florida's Tank School Enforcement Tool  
A Presentation by Marshall T. Mott-Smith, Administrator  
Storage Tank Regulation Section  
Florida Department of Environmental Protection

The Bureau of Petroleum Storage System's Storage Tank Regulation Section has contracted with a company that provides Internet-based training products to develop a project called "Tank School". The project's concept is similar to "Driver's School" where drivers get remedial training to offset insurance premium increases and ticket costs.

It is an Internet-based course that takes approximately four hours to complete. It can be taken at the purchaser's convenience as directed by the Department in response to an enforcement action for facility non-compliance. The Tank School Course presentation will provide an explanation about the course and how it will be used, since the course was recently completed on October 1, 2001, and there is no data available about its success.

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**DAY 1**

2:30 PM

**Operational compliance as a factor in State Fund or insurance claims.**

GAO Report recommendations and Summary - Definitions of inspectors site visits.

Speaker: Dick Ostrom, ID

State Tank Funds provide Financial Responsibility mechanisms for UST owners and operators, and as such, they have a vested interest in operational compliance. Tank owners who properly operate and maintain their UST systems should have fewer releases and claims, and when releases do occur, the cleanups should be less costly.

Unlike the traditional State Assurance (Cleanup) Funds, Idaho's Petroleum Storage Tank Fund (PSTF) was created by the legislature to function as a not-for-profit insurance organization for the purpose of issuing contracts of insurance to pay for the costs of cleaning up petroleum leaks and compensating third-parties for bodily injury and property damage caused by their leaking tanks.

This presentation will focus on PSTFs role in promoting operational compliance and how it supplements state and federal regulators efforts of assuring operational compliance within the state. Other topics to be addressed include how inspections by the PSTF are similar/different from those conducted by regulators, how operational compliance may affect the availability of funding for cleanups, and what leverage PSTF may employ to motivate tank owners to maintain continuous compliance and take their compliance responsibilities seriously.

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**DAY 1**

3:30 PM

**What are the priorities? Which Operational Compliance issues are highest priority, medium priority and NA.**

Speakers: Paul Miller, EPA-OUST and Liz Haven, CA

The office of underground Storage Tanks (OUST) believes that operation and maintenance (O&M) is crucial to achieving the goal of preventing another generation of leaking underground storage tank systems. We continue to work with, partner with, and leverage other Environmental Protection Agency (EPA) offices, States, industry, trade associations, and other interested parties to make quality tank management a common

business practice." To date, we have developed several useful O&M outreach tools, including an operation and maintenance manual and an automatic tank-gauging manual. In addition, we have worked with the United States Postal Service to assist them in the development of their O&M plan. This presentation will briefly discuss OUST O&M activities. In addition, OUST is asking, "What else should we be doing to make quality O&M a common business practice?" Bring your ideas to the meeting!

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## DAY 1

3:30 PM

### **What are the priorities? Which Operational Compliance issues are highest priority, medium priority and NA?**

Speakers: Paul Miller, EPA-OUST and Liz Haven, CA

### **California's Efforts: Operational Compliance Priorities**

Speaker: Liz Haven, CA

California's experience with operational compliance issues shows that regulatory agencies should place high priority on areas in which failure to comply can result in releases. As long as MTBE or other ethers remain in fuel, California's regulatory agencies must maintain a high level of vigilance in identifying and following up on major violations. They must also ensure compliance through inspections, education of the regulated community, and escalation to enforcement if necessary. California is now identifying areas of Significant Non-Compliance for focused attention by local regulatory agencies. Through inspector training, California Water Board staff are working with local agency staff to identify such violations through inspections, which are now required to be on an annual frequency. California's inspections are performed during routine annual maintenance inspections, required by regulations, to verify functionality of leak detection equipment and to provide inspectors with access to underground components of the systems. Performing thorough inspections on an annual basis serves to limit the number and extent of future violations.

In addition, several new California efforts are expected to result in the discovery and repair of leaks that were previously not detected. First, enhanced leak detection testing is now required at operating UST systems with a single-walled component within 1000 feet of a public drinking water well. Second, California is researching the performance of

double-walled versus single-walled systems. Third, secondary containment testing is now required and is expected to result in improvements to the performance of double-walled components. Finally, attention to new releases is expected to increase as a result of the implementation of a pioneering electronic data submittal program that will populate California's Internet-accessible database, GeoTracker, with UST data.

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## **DAY 1**

4:15 PM

### **National Leak Detection Workgroup=s Look at Functionality in the Field.**

Speaker: Curt Johnson, AL

The National Work Group on Leak Detection Evaluation's (NWGLDE) role in Helping to Obtain Operational Compliance

Underground Storage Tank (UST) inspectors must now spend more and more time looking at the operation of leak detection equipment/manuals instead of just looking for a box on the wall or a piece of paper to confirm that leak detection equipment/methods are in place. Determining whether or not leak detection equipment/methods are being operated properly is much more difficult and requires a basic knowledge of the operating principles, along with ready access to a comprehensive source of technical information.

In the past, the NWGLDE List has been promoted primarily as a means to determine whether a certain type of leak detection equipment was properly third-party tested in accordance with an accepted protocol. However, when it comes to leak detection equipment/methods, the current NWGLDE "List of Leak Detection Evaluations for Underground storage Tank Systems" can be a valuable resource. The List provides essential technical information an UST inspector needs to determine if leak detection equipment/methods are properly installed/implemented and operated to perform in accordance with the manufacturer/vendor specifications and within EPA UST regulatory performance requirements.

This presentation will provide examples of how the NWGLDE List can be used as a useful reference to help inspectors better perform operational compliance inspections.

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5:00 PM

**Adjourn first day**

DAY 2      October 23, 2001

8:00 AM

**Promoting and Achieving Operational Compliance**

Moderator: - Ben Thomas, AK

Now that we have a handle on what operational compliance is, and how to measure it, the next step is to invigorate your UST program with it. Promoting and achieving operational compliance requires innovative approaches. The May 2001 GAO report highlights the need for doing business in a new way. The following experts will share the secret of their success in implementing their ideas. The approach must be continuous, comprehensive or all-inclusive, self-sustaining, field-based, innovative and cost-effective.

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8:15 AM

**A Mandatory Field Presence with 3<sup>rd</sup> Party Inspectors**

Speaker:      Luther Lengel, PA DEP

Wanted: mandatory inspections. Routine field inspections are the only way to achieve operational compliance on a long-term basis for a large universe of USTs. Hear from veteran third party inspector state Pennsylvania how they tackled the issue of a uniform field presence, inspector oversight; the distribution of follow-up caseloads for state inspectors, what works, what doesn't and what they want to do better. If you don't think

your state can inspect every tank at least every 5 years, the session is for you.

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## **DAY 2**

9: 00 AM

### **Partnering Strategies with Winning Results**

Moderators: Anton Rozsypal, Jr. PE, TNRCC  
Dick Patyrak, P.E., Chairman, Industry Council on the Environment (ICE).

The State of Texas and a large industry association, which includes as part of its membership the Texas Petroleum Marketers & Convenience Store Association (TPCA) , have a common goal of preventing releases. This has resulted in the creation of an industry-backed UST self-certification program. First learn how industry and the Texas Natural Resource Conservation Commission parties have and continue to work together achieve this common goal. Then get ready to share your own stories and opinions about partnering strategies in your state. This open-style session will allow participants an opportunity to let other states know what sort of partnering efforts are being used around the country.

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10:00 AM

## **UST Operator Exam: Coming Soon to a State Near You**

Speaker: Doug Hatch, ICBO

States are starting to check out the idea of UST operator training and certification. Does a state have to create an exam from scratch, or is there an off-the-shelf package ready to use? Doug Hatch from the International Conference of Building Officials will describe the operator exam being developed by ICBO for 2002. Doug will explain the background, development, and maintenance of ICBO exams used for professional licensing.

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## **DAY 2**

10:45 AM

### **Enforcement - Tags, Repairmen and Leak Detection Probation**

Speaker: Ben Thomas, AK

How do you enforce operational compliance with limited staff and a large territory? Alaska will share the formula of success using operational tags, licensed tank-fixers and leak detection probation as a creative collection of tools to enforce on all UST operators, not just a select few. Tags motivate operators to strive for compliance: No tag, no fuel. Tank fixers leverage private dollars to correct problems, focusing on compliance rather than enforcement. And leak detection probation trains would-be felons to be good citizens by doing leak detection right.

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11:30 AM

### **Wrap-up/Next Steps**

Moderators: Edward Galbraith, MO

Dale Marx, UT

Identify roles, responsibilities, and possible next steps for States, EPA, and other partners

Speakers: All Task Force members/moderators

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1:00 PM

Adjourn