



west virginia department of environmental protection

Environmental Enforcement
Hazardous Waste/Underground Storage Tanks
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UNDERGROUND STORAGE TANK DELIVERY PROHIBITION GUIDANCE

The West Virginia Department of Environmental Protection (WVDEP) may prohibit the delivery of product to an underground storage tank (UST) system when it is determined that the system is in violation of one or more of the following:

- Underground Storage Tank fee assessment (33 C.S.R. 31)
- Notification requirements (33 C.S.R. 30-4)
- Capitalization fee requirements (33 C.S.R. 32-5)
- Spill prevention
- Overfill protection
- Release detection
- Corrosion protection
- Financial responsibility

The WVDEP will always prohibit deliveries for violations where required equipment is not installed unless it is not in the public's best interest, as directed in the US Environmental Protection Agency's (USEPA) delivery guidance published August 7, 2006. The WVDEP retains complete discretion to determine if a delivery prohibition action is advisable for operation and maintenance violations.

Decision Process:

Upon discovery of a violation that warrants the enactment of the delivery prohibition, the WVDEP staff member making the discovery shall alert the Underground Storage Tank Program Manager. The Underground Storage Tank Program Manager will review the case to determine whether a delivery prohibition is warranted. The Underground Storage Tank Program Manager will alert the Assistant Chief Inspector and Chief Inspector of a decision to implement the delivery prohibition prior to implementing delivery prohibition actions.

Notification:

The Underground Storage Tank Program Manager will alert the UST owner/operator or their representative in writing that the UST system cannot receive delivery or deposit of product. The written notice will state the violations and actions that must be taken to achieve compliance. The notice may also state consequences for continuing to operate the UST system. Notice must be served by certified mail or delivered by hand by a WVDEP representative. In emergency

situations or threat to human health or the environment, the Underground Storage Tank Program Manager may initiate delivery prohibition and provide immediate notice to the owner/operator. The Underground Storage Tank Program Manager and/or his/her staff will make a good faith effort to determine who delivers the product. If determined, the product deliverer will receive a copy of the delivery ban notice issued to the owner/operator. WVDEP will also post on the WVDEP web site the facility name, address, and county location with a statement that a delivery ban is in place to provide notice to product deliverers.

Physical Ban:

WVDEP will affix a tag and lock clip to the fill of the noncompliant UST system. This tag must be marked "Do Not Fill" and have the WVDEP contact information upon it. Should the fill be in a condition where locking or tagging is not feasible the WVDEP may plug and label the fill in such a manner that alerts a product deliverer but does not damage the fill port. Additional stickers or labels may be affixed to locations at the facility where WVDEP deems it is warranted to alert a product deliverer of the ban.

The remaining product within the UST may be dispensed until the UST system is empty *unless*, the WVDEP determines that there is an immediate threat to public health and safety.

Compliance:

When an owner/operator achieves compliance and properly notifies WVDEP, the WVDEP shall review the compliance data and/or visit the site to confirm compliance. Removal of the tags, locks, and/or labels may be performed by a WVDEP representative or the owner/operator with approval by WVDEP. Temporary removal of locks may be performed to conduct repairs, upgrade, testing or to remove product by a qualified individual, qualified tester or owner after receiving approval from WVDEP. WVDEP shall provide a written notice of compliance to the owner/operator and any product deliverers involved. WVDEP shall remove the facility name and information from the WVDEP web site once compliance is achieved.

For more information contact the WVDEP at (304) 926-0470.