State of the UST Branch 2016

Division of Waste Management
Energy and Environment Cabinet

Edward Winner, PhD
1. Petroleum stored to meet citizens’ needs, to foster economic growth and development, and quality of life
2. Releases have and will occur which threaten public safety and the environment
3. Difficult to obtain affordable pollution liability insurance
4. Need investigation and cleanup without delay
5. Minimize disputes over causation and responsibility
Structure and Staff

- Administrative Section: Tank Registration 6 to 4 employees
- Compliance Section: New Installations and issues associated with operations 6 (Supervisor Filled 11/1/15)
- Initial Evaluation & Closure → Corrective Action II 6
- Corrective Action 7 to 8
- Claims and Payments 6 to 7
- Manager’s staff 4 to 3
- Total staff 34
  (Down from 54 November 2011)
Sites Processed or In Process since Program Inception

- 50,243 registered USTs since 1985
- 40,520 USTs permanently closed
- 15,838 total NFAs issued
- 579 Emergency Responses

- Permanent Closure 23 3rd Q
- Investigation 166 directives 3rd Q
- Corrective Action 489 directives 3rd Q
NFAs Increasing while New Sites are Decreasing
Decreasing Numbers of Sites Pending Cleanup

- 2,809 sites in April 2002
- 793 sites in January 2015
- 678 March 2016

2011 Reg Amendments
Site Spend Less Time in Investigation

# Sites

Date

Closure
Corrective Action
Site Investigation

Kentucky UNBRIDLED SPIRIT
Timely Site Characterization & Technology
Workload per Project Manager ≈ 50 Sites

Less time in Site Investigation while Corrective Action Workload increasing. Sections merged in 2015.
Registration Workload Steady

- **Registrations Received**
- **New Registrations**
- **Tanks Installed in Calendar Year**
- **New Registrations Expected**

The graph shows the number of tanks over the years from 2007 to 2016, with data points indicating the number of registrations received, new registrations, tanks installed in the calendar year, and new registrations expected.
1. C&P processing payments within one week verses 3 months prior to 2011.
2. Gaining contractors support in regards to project efficiency
3. Forms and documents through electronic submittal
4. Monthly notices to PM regarding $ remaining per site.
5. Moving all records functions into a single database TEMPO.
Before Fixed Cost

- Directive
- Cost Estimate
- Complete SOW

Project Manager reviews report

Claims and Payments reviews report

Adapts payment based on receipts and timesheets

"Not to Exceed Amount"
Fixed Cost

Directive and Worksheet

Complete SOW

Project Manager reviews report

Adjusts payment based on technical completeness
2011 Regulations and Management

• Provide for fixed cost reimbursement with each directive

• Timely, consistent payment
  – Contractor Cost Outline
  – Project manager communicates technical completeness

• Clarity in expectations between the eligible company and USTB

• Philosophy of Partnership working on behalf of the tank owner/operator!
Recent Legislative Session Affect USTB Fund

• Red Tag for failure to register Jan. 6th 2016
• Extension dates for PST and SOTRA HB 187

  – PST reimbursements until July 15, 2024.
  – SOTRA application received until July 15, 2021

(Strong Support from KPMA, tank Owner/Operators & UST Contractors)
The greatest risk to the fund is:

- Communicate Failure with
  - owners/operators
  - USTB
  - contractors
- Unresponsive to Directives
  - Outstanding Obligations
    - Failure to Execute Work
  - Angry tank owners/operators
  - Dated Characterization
- State Budget
  - Support
Compliance Rates:

- DCM compliance rate: 91%
- TOOLS, owners/DCMs like training online at their own pace & schedule
- New federal regulations in TOOLS update

Improvements:

- Under the new Federal regulations owners/operators will be required to do monthly walk through. The clear intention of the fed. Reg. is to have the individuals involved in the daily operations knowledgeable and involved in compliance.
- Actual compliance in general is down. We don’t know if there is any relationship with DCMs, but the fear is that some owners have abdicated responsibilities to DCMs who do little more than take the TOOLS test on the owner/operators behalf.
Understanding Tank Population

Small Owners Compliance Rate

- 40% Out of compliance
- 60% In compliance

Large Owners Compliance Rate

- 37% Out of compliance
- 63% In compliance
Tank Age to Violations

Facility Age and Percent of Violations for Small Operators

- Pre 1998 Tanks: 82%
- Post 1998 Tanks: 18%

Facility’s Age and Percent of Violations for a Large Corporate Operator

- Pre 1998 Tanks: 66%
- Post 1998 Tanks: 34%
## New Regulations (Federal Impetus)

<table>
<thead>
<tr>
<th>Idealized EVENT DESCRIPTION: 2017 UST Regulations</th>
<th>TIME</th>
<th>DATE</th>
<th>UPDATED/CONFIRMED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Announce start of regulation writing process</td>
<td></td>
<td>2/16/16</td>
<td>2/16/16</td>
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<tr>
<td>Distribute list of suggested reg. changes to UST sections</td>
<td>2/16/16</td>
<td>2/16/16</td>
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<tr>
<td>Initial reg. rewrites from sections to management</td>
<td></td>
<td>3/15/16</td>
<td>3/15/16</td>
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<tr>
<td>Collect comments from review group</td>
<td></td>
<td>3/17/16</td>
<td>3/17/16</td>
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<tr>
<td>Identify if statutory changes are needed</td>
<td></td>
<td>3/17/16</td>
<td>3/17/16</td>
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<tr>
<td>First regulatory change package from review group for internal review by UST Branch via supervisors</td>
<td>4/7/16</td>
<td>4/7/16</td>
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<tr>
<td>Discussions with Fire Marshal's Office</td>
<td>Started</td>
<td>4/15/16</td>
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<tr>
<td>Statutory proposals due</td>
<td></td>
<td>June 1, 2016</td>
<td></td>
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<tr>
<td><strong>Informal vetting with stakeholders</strong></td>
<td></td>
<td>June 2, 2016</td>
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<tr>
<td>Drafts sent to LRC for Pre-Review</td>
<td></td>
<td>7/15/16</td>
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<tr>
<td>Finalize Regulation Proposal</td>
<td></td>
<td>7/24/16</td>
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<tr>
<td>Request Formal Legal review</td>
<td></td>
<td>8/7/16</td>
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<tr>
<td>Announce External Vetting Meeting</td>
<td></td>
<td>Open Date</td>
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<td>File regulation (including electronically).</td>
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<td>10/14/16</td>
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<tr>
<td><strong>Public Comment Period begins (15 day period)</strong></td>
<td></td>
<td>10/14/16</td>
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<tr>
<td>Reg. published in Administrative Register (AR)</td>
<td></td>
<td>11/1/16</td>
<td>Nov. 21, 2016</td>
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<tr>
<td>Hold Public Hearing—301D</td>
<td></td>
<td>Nov. 30, 2016</td>
<td></td>
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<tr>
<td>Public Comment Period ends</td>
<td></td>
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<tr>
<td>Send Statement of Consideration (SOC) to commenters</td>
<td>15th day following of month following AR publication</td>
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<tr>
<td>Prepare Suggested Amendments response</td>
<td></td>
<td>N/A</td>
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<tr>
<td>Referred to LRC (Standing Committees)</td>
<td></td>
<td>January 2017</td>
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<tr>
<td>Regulations becomes effective</td>
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<td>During Session (At close of House and Senate Natural Resources Committee hearings or 30 days if not place on agenda)</td>
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