

Residential Heating Oil UST “Requirements”

Residential heating oil Underground Storage Tanks (USTs) are subject to State Water Control Law (SWCL) and/or State Fire and Building Codes. One that is in use and not leaking is in compliance with both SWCL and the codes.

State Water Control Law

Article 11 of State Water Control Law requires reporting of discharges (releases) from heating oil tanks, and it provides the VDEQ (Virginia Department of Environmental Quality) with the authority to require owners to perform cleanup as necessary to protect human health and the environment. The cleanup costs range from a few hundred dollars to tens of thousands of dollars, **but currently there is financial assistance from the Virginia Petroleum Storage Tank Fund which generally limits an owner’s financial exposure to approx. \$500 for cleanup** (code compliance may be extra -- see reverse for additional information on costs).

State Building and Fire Codes

Regarding UST requirements, both the Uniform Statewide Building Code (§108.2) and the Virginia Statewide Fire Prevention Code (§103.1) now refer to the 2000 International Fire Code section 3404.2.13.1.4. This section states that {paraphrased} residential heating oil tanks less than or equal to 1,100 gallons capacity and out of use for more than 1 year shall be emptied of flammable/combustible liquids and either removed or abandoned in-place by properly sealing the piping. [This code applies to the entire state, but local interpretation may vary -- see reverse for information on Richmond Metro area localities].

Important Points

1. Evidence of petroleum leakage from a heating oil UST is required by State Water Control Law to be reported to the VDEQ immediately. There is no legal requirement to inspect for leakage, **BUT** the only way to determine if a UST is in compliance with State Water Control Law is to perform a thorough leak/release inspection. The incentive for homeowners to have USTs inspected is that State funding is available (see below #4) to properly address the leakage. Ignoring a leaking tank enables contamination to spread, and it places the owner at risk of having to deal with it later – potentially **without** financial assistance from the State.
2. Due diligence by a prospective real estate buyer is a common motivation behind leak/release inspections. A lender or insurance company may also require USTs to be inspected and properly addressed.
3. The owner of the UST at the time that a leak/release is reported to the VDEQ is designated by the VDEQ as the responsible party (RP). The RP is responsible for cleanup as deemed necessary by the VDEQ.
4. Currently an RP has access to the Virginia Petroleum Storage Tank Fund (VPSTF) for financial assistance towards required corrective action. There is a “deductible” of \$500 for heating oil USTs. Pollard Environmental, LLC handles all of the paperwork required to access the VPSTF.
5. The above-referenced State Building and Fire Codes reflect a change in 2003. Code compliance previously required USTs to be removed or filled with an inert solid, but the recent change allows residential heating oil USTs (1,100 gallons or less) to be abandoned without filling with an inert solid, provided the oil is removed and the piping sealed; most localities allow this method. As discussed below (“Considerations...”) there are reasons for opting to remove or fill a UST even if it’s not required by law or code.

Considerations resulting from the 2003 “relaxed” code

The following considerations should be noted in light of the 2003 “relaxation” in the code. Based on some or all of these considerations, an owner may opt to remove (or fill) a UST even if it’s not required.

- Abandoned USTs, although they may be compliant with SWCL and code, may still raise some questions during real estate transactions. Obtaining and keeping proper paperwork will be very important if USTs are to be abandoned in-place.
- Although our inspectors are as thorough as possible, release inspections prior to tank removal are probably only 95% reliable because one doesn’t know what’s going on directly beneath the UST. UST removal enables verification of non-leakage or -- for tanks where a release has been detected -- a more thorough assessment of the degree of contamination and the associated risks. UST removal may be advisable if there are drinking water wells, sump pumps, creeks, or other sensitive receptors nearby.
- Ultimately, although it may be many years, a steel tank will corrode and collapse. Although not currently required by code, filling tanks with an inert solid is an option that may be advisable when a UST is beneath a driveway or close to structural footings, or if there is some other condition where structural integrity is crucial.
- As we have seen, Codes are subject to change. Removing or filling a UST provides insurance against potential future Code changes related to USTs.

Buyer’s Due Diligence

When purchasing residential real estate containing a heating oil UST we recommend that the following items be included in the contract:

1. A proper leak/release inspection of all underground petroleum storage tanks shall be performed by Pollard Environmental, LLC (the buyer should select or approve of the inspection company).^{1,2}
2. If there is a leak/release from the petroleum storage tank(s), it/they shall be immediately reported to the Virginia Department of Environmental Quality (VDEQ) and addressed per VDEQ specifications.
3. All out-of-use (regardless of how long out of use) and/or leaking underground petroleum storage tanks shall be addressed per state and local codes/regulations. [Note: This item covers minimum code compliance only, which due to the new “relaxed” State Code may consist of only removing the petroleum and sealing the piping. A buyer may choose to amend this item to explicitly include the tank removal or filling based on the information above in “Considerations resulting from the new ‘relaxed’ code.”]
4. The site is to be reasonably restored to its original condition.

¹ There is no certification or licensing for inspectors, so it is important that competent personnel be selected to perform the inspection. We also recommend that the inspection company have professional liability insurance. Pollard Environmental, LLC meets these criteria.

² If you are uncertain whether a UST exists, we can perform a due diligence inspection for evidence or a record of one.

Potential Costs? VPSTF Financial Assistance?

The Virginia Petroleum Storage Tank Fund (VPSTF) provides financial assistance for VDEQ-required environmental corrective action. There is a \$500 deductible (“financial responsibility”) for each release. The VPSTF assistance is available for required cleanups only, and it does not include the permit(s) or applicable Code requirements. The following table summarizes the general out-of-pocket cost estimates to address leaking and non-leaking USTs to include both compliance with SWCL and the Building/Fire Code.

	<i>Non-leaking UST</i>	<i>Leaking UST</i>
Initial Release/leak Inspection	\$190	\$190
Minimum USB/SFP Code Compliance (*including permit)	\$600-\$800	\$100 - \$300
State Fund Financial Responsibility (Deductible)	N/A	\$500
Total Out-of-Pocket Estimated Cost Range	\$790 - \$990	\$790 - \$990

* The above costs include UST removal only if required by the VDEQ to enable excavation of contaminated soils; if UST removal is not required, but owner chooses to have it removed, additional costs apply.

** The above figures are good faith estimates, but they are only estimates. Actual pricing may vary.

Residential Heating Oil UST Information by Locality

This table applies only to residential heating oil USTs having a capacity of 1,100 gallons or less.

Locality	Subject to State Water Control Law if release of petroleum	Subject to State Building and Fire Code	Requires permit to remove or abandon USTs	Allows UST to be abandoned without filling with inert solid	Requires USTs to be removed or filled with an inert solid
City of Richmond	√	√	√	√	
Chesterfield Co.	√	√	√	√	
Henrico County	√	√	√	√	
Hanover County	√	√	√		√
Goochland County	√	√	Recommended but not required	√	

NOTE: Regarding **FHA loans**, we have not been able to obtain a consistent answer on their requirements for residential USTs. HUD’s underwriters have indicated that a UST must be properly addressed such that it is safe and not an environmental risk. At least one FHA appraiser has indicated to us that out-of-use residential USTs are still required to be removed prior to obtaining an FHA loan.