



Buying or Selling Property with Underground Storage Tanks

A guide for owners and operators of USTs

This is a general guide to laws and regulations about underground storage tanks and an aid in minimizing potential risks; it does not replace those laws and regulations, which take precedence over any information contained herein. If your tank system is located in Kinney, Uvalde, Medina, Bexar, Comal, Hays, Travis, or Williamson County, additional requirements related to the protection of the Edwards or the Trinity Aquifer may apply (Title 30, Texas Administrative Code [30 TAC], Chapters 213 and 214). In addition to the laws and TCEQ rules, local governments and other state and federal agencies may have rules that apply. The UST owner and operator are responsible for ensuring compliance with all applicable laws and regulations.

What should I do before I buy a gas station or a property with existing underground petroleum storage tanks?

Before making a purchase, you should determine two major issues:

1. Are all UST systems in compliance with all technical requirements?
2. Is there contamination on the property (either from one or more UST systems or from other sources, including historical or off-site sources)?

Keep in mind that you need as much information as possible from the previous owner to ensure technical compliance with applicable TCEQ rules. Installation records and documentation of compliance are invaluable and should be secured if at all possible. You may wish to secure estimates of cost to remove tanks, search for historical information on them, and ask the former owner for records of their installation, removal, upgrades, release detection, and corrosion protection, and other important documents related to their performance and maintenance. Ensure that any claims made by the seller can be verified with installation, removal, and compliance records. If those records are not available, you should consider spending what is necessary to create them. An environmental site assessment called a *Phase I assessment* is commonly conducted prior to a transfer of ownership of commercial property to identify potential environmental contamination. Additionally, a *Phase II assessment* is conducted to determine if there is contamination at the site. A Phase II assessment includes soil and groundwater samples.

Underground storage tanks may have previously been installed and registered at the property and since removed or placed permanently out of service. If the tanks have been permanently removed from service, you should request a copy of the Release Determination Report (form TCEQ-00621) or other report documenting the removal of the tank system and any confirmatory sampling that may have been conducted. It is essential for a prospective property owner to determine whether the TCEQ has issued a “no further action” letter to a previous owner, indicating that removal of such a UST from service has been concluded with agency concurrence that no further action is needed by the current owner. If no such letter has been issued, that means the agency has not given its final response to the permanent removal from service of the UST.

How can I obtain information about the underground storage tanks from the TCEQ?

- The **Petroleum Storage Tank Registration Database** can tell you whether a facility is registered with the TCEQ and gives technical information about registered PSTs.
<www.tceq.texas.gov/goto/pst_reg_db>
- The **Leaking Petroleum Storage Tank Database Query page** can help you find current and historic information about known LPST sites. Look up information by owner, address, city, county, and other criteria.
<www.tceq.texas.gov/goto/lpst_db_query>
- **The Compliance History Database.** State rules require the TCEQ to maintain and publish compliance histories for many of the companies, individuals, agencies, and other entities that it regulates. Histories become a rating of a customer’s “distance from compliance.” Poor ratings can cause denial of permits, stricter regulation, and higher penalties. It’s important to remember that a buyer inherits the compliance history rating of the facility.
<www11.tceq.texas.gov/oce/ch/>
- Check to see if there is a **pending enforcement action** against the current owner of the UST system on the property. The status of any pending or issued enforcement order is available at:
<www.tceq.texas.gov/goto/pending_enforcement>
- You may also perform an **open-records request** online, or via e-mail, fax, or mail to obtain documents, pending applications, ongoing compliance or enforcement actions, or other records.
<www.tceq.texas.gov/goto/records_request>
- For additional **current and historical registration information**, you may contact the PST Registration Team at 512-239-2160.
- For additional information on **cleanup requirements or UST technical requirements**, you may contact the Remediation Division at 512-239-2200.

What must I consider if there is contamination?

The TCEQ does not prevent the sale of LPST sites. All parties involved in the sale of property with an LPST should be aware of the cleanup requirements and potential costs. Although the TCEQ continues to hold a responsible party responsible for a cleanup even after property is sold (i.e., a party may not contract away environment liability once a release has been discovered), buyers are cautioned that they may also become responsible for performing any corrective action on their property. Parties may choose to minimize delays in real estate transactions if, rather than insisting on the final closure of the LPST site by the TCEQ prior to the property sale, they instead address this issue in the negotiated price or establish responsibility via contract, letter of credit, bond, or insurance. However, the TCEQ will not be bound by any agreement between the parties.

All interested parties should consider hiring a qualified environmental consultant and possibly an attorney to evaluate existing information. For a list of environmental consultants registered with the TCEQ, visit www5.tceq.texas.gov/oce/olwe or contact the Operator Licensing Section at 512-239-6139.

What are my options regarding existing UST systems?

If underground storage tanks remain in the ground, they are generally considered part of the property and are transferred with it, unless the seller specifically maintains ownership of them. The buyer is responsible for keeping (or making) the tanks compliant with applicable rules.

All UST systems must be maintained in compliance with applicable TCEQ rules, whether or not they are in use. If you are going to continue to use a UST system, it must comply with all technical and administrative requirements, including release detection, corrosion protection, spill- and overfill-prevention equipment, financial assurance, registration and self-certification, and recordkeeping (and any other requirements that apply). Request, from the seller, all existing records associated with the UST system, including installation documentation, owner's manuals, and compliance documentation. If those records are not available, you may be required to re-create them or perform additional tests and actions to keep the UST system in compliance.

If you are not going to use a UST system, one option for temporary removal from service is described at 30 TAC 334.54, and three options for permanent removal from service (along with additional information) are described at 30 TAC 334.55. Those three options are:

1. removal from the ground,
2. abandonment in place (proper emptying by a licensed UST contractor and filling with sand, cement, etc.), or

3. permanent change in service (storage of non-regulated substances).

Regardless of the option you choose, the work will need to be performed by a TCEQ-licensed UST contractor, and a comprehensive site assessment must be performed to determine whether a release has occurred from any part of the UST systems. For more information on permanent removal from service, see *Permanently Removing Petroleum Storage Tanks from Service*, TCEQ publication RG-475m.

It is a good business practice to secure bids on actions to ensure the tanks' compliance (removal, upgrades, soil samples to determine if contamination is present) **before taking ownership of the property**. There is no substitute for soil and groundwater sampling to determine if there is subsurface contamination.

What Do I Need to Report?

Responsibilities of sellers and purchasers of underground storage tanks				
	Written disclosure that the tank is regulated by the TCEQ before the property is transferred to the purchaser	Update of form listing tank status and ownership registration within 30 days of sale (Form TCEQ-00724)	Construction notification to TCEQ 30 days prior to major construction activities (Form TCEQ-00495)	Record keeping in accordance with 30 TAC 334.10
Seller	X			
Purchaser		X	X	X

Under 30 TAC 334.9, written notification from the seller to the buyer must include the names and addresses of the seller (or grantor) and the purchaser (or grantee), the number of tanks involved, a description of each tank (capacity, tank material, and product stored, if applicable), and the agency's designated facility identification number (if the entire facility is being conveyed). The following certification statement is sufficient:

The underground storage tank (or tanks) included in this conveyance is (are) presumed to be regulated by the Texas Commission on Environmental Quality and may be subject to certain requirements for registration, compliance self-certification, and construction notification, and other requirements found in Title 30, Texas Administrative Code, Chapter 334.

For further information regarding tank registration, refer to *Petroleum Storage Tank Registration and Self Certification*, TCEQ publication RG-475d.

Where do I find more information?

Laws and regulations pertaining to the PST program are found in Texas Water Code, Chapter 26, Subchapter I, and at 30 TAC 334.

The complete UST technical standards may be found at 30 TAC 334, Subchapter C.

Guidance for conducting assessment and corrective action at leaking UST sites is available in *Investigating and Reporting Releases from Petroleum Storage Tanks* (TCEQ publication no. RG-411).

Search for TCEQ publications online at <www.tceq.texas.gov/publications>.

For confidential environmental compliance assistance for small businesses and local governments, contact Small Business and Local Government Assistance via the hotline at 800-447-2827 or online at <www.TexasEnviroHelp.org>.

Definitions

Corrective action. Any assessment, monitoring, or remedial activity undertaken to investigate the extent of contamination or to remediate it.

Major construction activities. Includes removal of a tank from service; repairs to a tank, piping, or other parts of a tank system; and most other construction associated with tank systems.