



Buying or Selling Property with Underground Storage Tanks

A guide for owners and operators of USTs

This is module a of the PST Super Guide, a comprehensive guide to issues relating to petroleum storage tanks (PSTs). This super guide provides an overview to laws and regulations for PSTs and it can be used as an aid in minimizing potential risks. The guide does not replace those laws and regulations, which take precedence over any information in this publication.

Module a explains the rules and procedures when property with underground storage tanks (USTs) is bought or sold.

- You, the owner or operator of a PST, are responsible for ensuring compliance with all applicable laws and regulations.
- If your UST system is located in Kinney, Uvalde, Medina, Bexar, Comal, Hays, Travis, or Williamson County, additional requirements related to protecting 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.

What should I do before I buy a gas station or a property with existing USTs?

Buying a gas station or property with USTs carries considerable responsibilities. You must be prepared to manage significant regulatory and recordkeeping requirements. Before making a purchase, you should evaluate the answers to these important questions:

1. Are the 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) and, if so, do you have the financial resources for clean-up (i.e. assessment, remediation, and monitoring)?
3. If you do not plan to continue dispensing fuel, do you have the available resources to remove the tank(s) from service properly?

Keep in mind that you need as much information as possible from the previous owner to demonstrate technical compliance with applicable TCEQ rules. Installation records and documentation of compliance are invaluable and should be secured if possible. You should obtain estimates of tank removal costs, search for the facility's historical information, and ask the former owner for records of their installation, removal,

upgrades, releases and corrosion protection, and other important documents related to the USTs performance and maintenance.

You should document that any claims made by the seller can be verified with installation, removal, and compliance records. If those records are not available from the seller, you will need to obtain documentation through other sources, such as UST contractors who performed the installation or repair work. This information must be adequate to satisfy the requirements of a TCEQ investigation.

An environmental study called a *Phase I assessment* is commonly conducted prior to the transfer of ownership of commercial property to identify potential environmental contamination from on-site and adjacent properties. 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. Although the *Phase I and II studies* are valuable tools to document existing contamination at the site, they usually do not address historical design, installation, upgrade, and day-to-day operational records.

USTs may have been installed and registered at the property, but have been permanently removed from service after installation. 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 confirmation sampling that may have been conducted.

It is essential for you, as a prospective property owner, to determine whether the TCEQ has issued a “no further action” letter to a previous owner indicating that the site needs no further study. If the previous owner does not have the letter, you can contact the TCEQ Remediation Division to ask for a copy for your records at 512-239-2200.

How can I obtain information about the USTs from the TCEQ?

Use the resources in this list to research and find information about properties with USTs.

- The **TCEQ Central Registry Database** can tell you whether a facility is registered with the TCEQ and provides information submitted by the owner, or a representative of the owner, about the PST system. However, records from the database do not replace information from historical documents, such as original installation records. The database may also indicate whether the facility is, or ever was, registered as a leaking petroleum storage tank (LPST) site. The Central Registry Database is located at <www.tceq.texas.gov/permitting/central_registry>.
- The **Petroleum Storage Tank (PST) Records and Datasets** webpage provides downloadable files, including a statewide listing of LPST sites and PST facility data (including USTs). You can search raw data located at <www.tceq.texas.gov/agency/data/lookup-data/pst-datasets-records.html>.
- The **Compliance History Database** is another source of information. 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 is important to remember that a buyer inherits the compliance history rating of the facility. You

can search the compliance history database at www.tceq.texas.gov/enforcement/history/search.html.

- Check to see if there is a **pending enforcement action** against the current owner of the UST system on the property. To search the status of enforcement actions that are currently open, go to our enforcement actions webpage at www.tceq.texas.gov/enforcement/penenfac/index.html.
- You may also perform an **open records request** online, or via email, fax, or mail to obtain documents, pending applications, ongoing compliance or enforcement actions, or other records. Go to our open records webpage at www.tceq.texas.gov/agency/data/records-services/reqinfo.html for more information.
- 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 should 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 liable for a cleanup even after property is sold (i.e., the person in charge of the property when the release occurred may not contract away required cleanup once a release has been discovered), buyers are cautioned that they may also become responsible for performing corrective action on their property.

Parties may choose to negotiate the terms regarding any required cleanup by establishing a letter of credit or negotiating the price. However, the TCEQ will not be bound by any agreement between the parties, and a buyer of an LPST site is not eligible for the Innocent Owner/Operator Program.

All interested parties may consider hiring a qualified environmental consultant and possibly an attorney to evaluate existing information.

What are my options regarding existing UST systems?

If USTs 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 use a UST system, it must comply with all technical and administrative requirements, including:

- release detection,
- corrosion protection,
- spill and overflow, prevention equipment
- financial assurance,

- registration and self-certification,
- operator training,
- recordkeeping, and
- any other requirements that apply (such as Stage I Vapor Recovery).

Request, from the seller, all existing records associated with the UST system, including:

- installation documentation,
- owner's manuals, and
- compliance documentation.

If the seller cannot provide these records, 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, an option for temporarily removing the UST system from service is described in 30 TAC 334.54 and outlined in *Temporarily Removing PSTs from Service* (TCEQ publication RG-475l). Three options for permanently removing the UST system from service (along with additional information) are described in 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 possible actions that may be necessary to ensure the tank(s)' compliance (removal, upgrades, and/or 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?

Table 1 summarizes notification and recordkeeping requirements when property with USTs are sold or purchased.

Table 1: Responsibilities of sellers and purchasers of USTs

Responsible Party	Action
Seller	Written disclosure that the tank is regulated by the TCEQ before the property is transferred to the purchaser (30 TAC 334.9)
Purchaser	Update and submit form with tank status and ownership registration within 30 days of sale (Form TCEQ-00724)
Purchaser	Construction notification to TCEQ 30 days prior to major construction activities (Form TCEQ-00495)
Purchaser	Record keeping in accordance with 30 TAC 334.10

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, 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 the Texas Water Code, Chapter 26, Subchapter I, available at www.statutes.legis.state.tx.us/Docs/WA/htm/WA.26.htm and in 30 TAC 334 available at [texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=30&pt=1&ch=334](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=30&pt=1&ch=334).

Links to additional webpages about registering PSTs, technical requirements for regulated PSTs, and LPST cleanup are available at www.tceq.texas.gov/agency/pst_cert.html.

Complete technical standards for USTs are located in 30 TAC 334, Subchapter C available at [texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=30&pt=1&ch=334&sch=C&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=30&pt=1&ch=334&sch=C&rl=Y).

Requirements for tanks in the Edwards Aquifer are in 30 TAC 213 available at [texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=30&pt=1&ch=213](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=30&pt=1&ch=213).

Requirements for tanks over other aquifers are in 30 TAC 214 available at [texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=30&pt=1&ch=214&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=30&pt=1&ch=214&rl=Y).

Guidance for conducting assessment and corrective action at leaking UST sites is available in the Remediation Division's guidance *Investigating and Reporting Releases from Petroleum Storage Tanks* (TCEQ publication RG-411) available at www.tceq.texas.gov/publications/rg/rg-411.html.

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.